

1 UNITED STATES DISTRICT COURT

2 CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION

3 HONORABLE OTIS D. WRIGHT

4 UNITED STATES DISTRICT JUDGE PRESIDING

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6 United States of America,)
7 PLAINTIFF,)
8 VS.) NO. CR 10-351 ODW
9 Carlos Rivera, Jessica Medina, Raul)
Prieto,)
10 DEFENDANT,)
_____)

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14 REPORTER'S TRANSCRIPT OF PROCEEDINGS

15 LOS ANGELES, CALIFORNIA

16 JURY TRIAL - DAY ONE

17 TUESDAY, DECEMBER 4, 2012

18 JURY VOIR DIRE, 9:13 A.M. - 1:56 P.M.

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1 LOS ANGELES, CALIFORNIA; TUESDAY, DECEMBER 4, 2012

2 9:13 A.M.

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7 (The following proceedings were held outside the
8 presence of the jury:)

9 THE CLERK: Calling Item 1, CR 10-351, United
10 States of America versus Carlos Rivera, et al.

11 Counsel, may I have all appearances, please.

12 MS. EL-AMAMY: Good morning, your Honor. Reema
13 El-Amamy and Michael Dore on behalf of the United States.
14 Also present is DEA Task Force Officer Steve Walton.

15 THE COURT: Good morning.

16 MR. WALSH: Morning, your Honor. Joseph Walsh
17 appearing on behalf of Jessica Medina who is present in
18 court on bond.

19 MR. CEPHAS: Dana Cephas for Raul Prieto who is
20 present and on bond.

21 MR. NAVARRO: Morning, your Honor. Angel Navarro
22 representing Carlos Rivera seated to my left.

23 THE COURT: All right. Before we bring the panel
24 down, I know there is a couple of things that we needed
25 to talk about.

1 I did receive Mr. Cephas' objections to
2 several jury instructions. We don't have to worry about
3 that right now. There was an issue with respect to
4 exhibits that could be utilized during opening
5 statements, and I understand that too has been resolved.

6 MS. EL-AMAMY: Yes, your Honor. The government
7 filed an ex parte application to use certain exhibits,
8 and the court granted that application.

9 THE COURT: Okay.

10 MR. CEPHAS: Your Honor, to the extent it is
11 resolved, the defendants still object to the use of those
12 exhibits. I didn't want the court to misunderstand what
13 the government is saying. We still believe that those
14 exhibits should not be used during their opening because
15 they haven't been authenticated. There is no foundation.
16 I just wanted the record to be clear, your Honor.

17 THE COURT: All right. In looking at the
18 exhibits, I was really less concerned about
19 authentication given that these were photographs of
20 individuals, and I think in one case there are
21 photographs of some graffiti or in a couple of cases
22 photographs of graffiti. I take the government at their
23 word that they will actually have live witnesses who are
24 going to identify these things.

25 MS. EL-AMAMY: That's correct.

1 THE COURT: And, of course, if that fails to be
2 the case, then Andre and I will have a chat, but if you
3 or any defense attorney has a good faith belief that
4 there is a lack of evidence to supply the authentication,
5 then that is what I would like to talk about.

6 MR. CEPHAS: Well, your Honor, I can't say
7 because --

8 THE COURT: You don't know yet.

9 MR. CEPHAS: I don't know. But there is also
10 relevancy issues, prejudicial effect of some of the
11 photos. There are going to be scary photos that may
12 intimidate the jury right from the beginning of the case
13 and color the jury in such a way as to make it impossible
14 for our clients to have a fair trial.

15 So that, you know, is my concern that the
16 minute this trial starts, the jury is going to see
17 one picture after another picture after another picture
18 of some individuals who I recognize one is Carlos Rivera,
19 but the others I don't personally know, and so I can't
20 say right now whether they are relevant.

21 THE COURT: That is the problem I have with
22 respect to one of these. Exhibit 4. It is a photograph
23 of a Black Angels gang member who Mr. Rivera spoke with,
24 and after I read this, my question is so what? Why is
25 this relevant? I just don't understand.

1 MS. EL-AMAMY: Well, one of the things that the
2 government needs to prove is the enterprise. The
3 enterprise is made up of members. They identify each
4 other, and these are individuals who are acting
5 criminally together. It is part of the government's
6 case.

7 THE COURT: All right. That was a struggle,
8 wasn't it. All right. I do have a problem with the
9 relevancy of that particular exhibit. Likewise, with
10 Exhibit 6. You indicated that those were leaders of the
11 gang and photographs of Mr. Gil's tattoos, and you
12 indicate that these will help establish, these
13 photographs are relevant in that it will help establish
14 the criminal enterprise and the organized leadership
15 structure. Well, granted, these are facts which you
16 probably are going to have to establish, but I am not
17 certain that these photographs establish those facts.

18 MS. EL-AMAMY: Right.

19 THE COURT: These are the two that I had a problem
20 with, but if there has been a resolution. Also, No. 8, I
21 have got a big so what next to No. 8 as well. And 11, I
22 have a big red no. Photographs of two gang members
23 displaying gang hand symbols. Really? Let me do this.

24 MR. CEPHAS: Your Honor, I think we have a
25 different. Our 11 isn't --

1 MR. NAVARRO: Your Honor, I think what the problem
2 is the exhibit that you have, the document you have --
3 Angel Navarro, by the way -- the document you have was
4 the application that was filed by the government. What
5 we are looking at is the exhibit list, exhibit books
6 which is different. So I did not bring that document
7 with me, but I think that is the confusion that we have,
8 and Mr. Cephas and I worked together on this response,
9 your Honor, because my concern was the extreme prejudice
10 to my client of having tattoos of defendants who are
11 going to have trial next year which have, for example,
12 the Mexican Mafia on his chest. Most people are going to
13 see that, and they are going to be making a lot of
14 assumptions about these three defendants. That is my
15 opinion.

16 THE COURT: Okay. Why is that unfair?

17 MR. NAVARRO: It infers that they are very
18 dangerous people and they know very dangerous
19 individuals.

20 THE COURT: And, what, is this not true?

21 MR. NAVARRO: Well, your Honor, I don't think the
22 government is going to present any evidence of any
23 communications between my client and Mr. Nieto.

24 THE COURT: I think what the government is trying
25 to establish is these defendants' association with this

1 particular enterprise.

2 MR. NAVARRO: And the government can do that
3 through testimony of law enforcement officers. They do
4 it all the time.

5 THE COURT: You would like to sanitize the
6 government's case, take out everything that is
7 prejudicial.

8 MR. NAVARRO: I want to make it a fair trial.
9 That is really what I want.

10 THE COURT: If it is not misleading, if it is not
11 factually inaccurate, if it is not unduly prejudicial,
12 what makes it unfair? Just because it is prejudicial?
13 It is going to be prejudicial.

14 MR. NAVARRO: I think you have to weigh what is
15 the value of those photographs against the prejudice to
16 this defendant, and one of our positions is and I think,
17 I believe I speak for all three counsel that the effect
18 of the photographs, if you look at them cumulative, there
19 is all these photographs of all these tattooed gang
20 members who have horns on their head, tattoos on their
21 upper lip who have Mexican Mafia hands on their upper
22 chest, who have angels with pitchforks tattooed on their
23 back which none of our clients have.

24 And I am not saying I am going to be disputing
25 during the trial that my client is a member of the gang.

1 These tattoos speak for themselves, and I can't object to
2 his tattoos coming in. The case law is pretty clear on
3 that. We never addressed that that way, but our concern
4 is if in opening statement, the government starts showing
5 all these photographs of all these people, there is
6 photographs there I think from the '70's or '80's, I can
7 only assume from the haircuts of the young men.

8 Those old gang photographs which my client
9 probably wasn't even born yet, and how they authenticate
10 those photographs, I don't know. How they authenticate a
11 photograph of a bunch of Black Angels from a long time
12 ago, I don't know how the government does that. And if
13 this was a situation where, for example, we were trying a
14 number of defendants together including the lead
15 defendants, it may be different because those individuals
16 may have those tattoos and that is the reality, but some
17 of the photographs are extremely -- there is relevance
18 issues, but, more importantly, there is prejudicial
19 issues, though, that I am concerned about.

20 THE COURT: What I am getting from you, though, is
21 that you say that the government intends to, at least,
22 you believe the government intends to show photographs of
23 individuals who may no longer even be alive.

24 MR. NAVARRO: I believe that may well be the case.
25 I don't know. There is people in at least

1 two photographs that are older photographs. I have no
2 idea who those people are. And we know they are Black
3 Angels. We know -- I don't think that they are
4 photographs from this decade just by the way the haircuts
5 are of the young men. They are maybe from the '80's, the
6 '70's. I have no idea.

7 THE COURT: Let's do this because you are right,
8 we do need to be reading out of the same hymnal. Well, I
9 am going off the only thing I have. I didn't have the
10 exhibit list that you all have.

11 MR. CEPHAS: Your Honor, I believe the court's
12 copy is --

13 THE COURT: All right. So I have one now. Okay.
14 What we will do, then, is right before we give opening
15 statements, we will go over this, and I would prefer -- I
16 don't know which of you is going to give the opening.

17 MS. EL-AMAMY: I am. I am going to have to take
18 stuff out. I have a Power Point presentation. I can
19 delete it. I just need to have that direction.

20 THE COURT: Maybe. Maybe. But let's see where we
21 end up.

22 MS. EL-AMAMY: Okay.

23 THE COURT: All right. Was there anything else
24 that we needed to talk about before we brought the jury
25 down?

1 MR. CEPHAS: I think there is, but before I
2 address this other issue, your Honor, with respect to
3 objections, can we have a standing order that the
4 three of us each join in the objection of the other so I
5 don't have to say join, join, join throughout the trial.

6 THE COURT: Absolutely. And we will make that
7 very clear for the record. An objection asserted on
8 behalf of any defendant is deemed to be asserted on
9 behalf of all. I can't see a down side to that. If
10 anyone does, you can opt out, but I don't see a down side
11 to that. But I think that would streamline things a bit.
12 Okay.

13 The other thing that I have been asked to
14 address is the potential juror list, No. 61 is not here.
15 So you can strike that one.

16 MR. CEPHAS: Your Honor, I wanted to raise an
17 additional issue regarding a memorandum of law that was
18 filed late last night. I didn't see it until this
19 morning, by the government. It is Docket No. 1892,
20 memorandum of law re potential evidentiary issues.

21 THE COURT: Yes.

22 MR. CEPHAS: And I think we should address this
23 now.

24 THE COURT: Okay.

25 MR. CEPHAS: It appears that -- and the government

1 can correct me if I am wrong because I have only read it
2 quickly. It appears that the government is going to
3 attempt to bring in audio recordings and let certain law
4 enforcement personnel testify as to people who are
5 speaking on the recordings even though they have not yet
6 been authenticated as to the speakers and we don't know
7 whether they will later be authenticated.

8 I believe that there is no basis for that in
9 law or in fact and that if at all, the government should
10 put on witnesses who can attempt to authenticate the
11 speakers. And then once that is done, then other
12 witnesses can testify regarding those. But I don't
13 believe that the government should be permitted to let
14 witnesses testify and have the jury hear recordings
15 claiming that they are either Prieto, Rivera or Medina
16 when in fact no authentication foundation has been done
17 with respect to those recordings.

18 MR. DORE: Your Honor, the government did file its
19 memorandum of law yesterday early afternoon about
20 1:00 p.m., and the issue, I believe, is what is necessary
21 to authenticate a recording. And as we put in our brief,
22 you do not need someone who recognizes the voice to
23 authenticate the recording. There can be circumstantial
24 indicia within the object or recording which indicates it
25 is what the government claims it is. And that is why if

1 and when we had witnesses testify as to the events which
2 are also described in those recordings and those
3 recordings then -- for instance, if a law enforcement
4 officer testifies that he went to the residence of
5 Jessica Medina and Carlos Rivera and there were narcotics
6 recovered from a red Acura, and then we have through
7 testimony also identified a recording as having taken
8 place the day of that arrest and that recording includes
9 details in which a woman describes how the Ontario Police
10 Department came and spoke to Carlos and found stuff in
11 the red Acura and someone said, Jess, you should give
12 them the keys.

13 We believe that those facts within the call
14 authenticate them as what the government claims it is.
15 Separate and apart from that, we will have a witness who
16 testifies and identifies, I can represent to the court,
17 the voices of the people in that call.

18 And so even if that was not sufficient to
19 authenticate the call which we believe it is, we think
20 those calls should be conditionally admitted until later
21 proven up by the voice because otherwise we have only
22 what the officer can testify to which is, for example,
23 Mr. Rivera and Ms. Medina said they didn't know whose car
24 it was, they didn't know where the keys were. And then
25 we have to wait until we get to that other witness who

1 can identify that voice who will be testifying as to
2 numerous recordings to finally get the recording where
3 Ms. Medina says I have the keys in my pocket.

4 And that is why we think it is appropriate
5 under Rule 611 for your Honor to control the presentation
6 of evidence and that the authentication is sufficient in
7 and of itself under 901(b)(4) to indicate that that call
8 is what we claim it is, and I can represent to the court
9 that our later witness who will be testifying as to
10 numerous calls will be able to identify those voices in
11 the call.

12 So that is the only reason we thought it was
13 appropriate to raise those identified calls at the
14 specified times.

15 THE COURT: Yes. Mr. Cephas.

16 MR. CEPHAS: The government relies on that
17 proposition for a First Circuit case. They say it is
18 well settled, but they are relying on United States
19 versus Ingram from 1987. They are not even relying on
20 Ninth Circuit authority.

21 And, moreover, this is done all the time that
22 calls are authenticated and foundation is laid for them
23 before witnesses testify about those issues. This was
24 dropped on us literally at the 11th hour, more like 11:30
25 last night after I was in bed, after I am sure other

1 defense counsel were.

2 I haven't had a chance to research the law
3 cited by the government, and I just don't believe they
4 should be allowed to create their own emergency and now
5 say, well, it is -- this is the way we want to present
6 our case, so let us do this.

7 One of their witnesses who apparently is going
8 to authenticate these voices later on is himself someone
9 who never heard these individuals, Juan Lemus. According
10 to the interview memorandum that we received yesterday
11 from Mr. Lemus, he is going to testify that he looked at
12 line sheets which are hearsay. The line sheets had the
13 names of Mr. Prieto or Ms. Medina or Mr. Rivera, and then
14 based on his review of those hearsay documents, he
15 listened to recordings that said what the line sheet
16 said. And after listening to hundreds of recordings, he
17 now can authenticate Mr. Prieto, Mr. Rivera and
18 Ms. Medina.

19 THE COURT: Having never heard them speak before?

20 MR. CEPHAS: Correct. He never heard them speak,
21 but he is going to authenticate.

22 THE COURT: No, he is not.

23 MR. CEPHAS: Well, that may be what the government
24 is talking about.

25 THE COURT: Yeah. But we are speculating on what

1 the government might do. Let's don't do that. I am glad
2 that the government put on the record what was in their
3 papers, and after reading the papers and considering the
4 court's authority to have some control over how the
5 evidence is ultimately presented in the case and taking
6 the government at its word that they will indeed have
7 witnesses who are going to testify to certain things, I
8 don't find anything improper about introducing the
9 evidence in this particular order.

10 But don't make a representation, don't make a
11 promise and then you don't keep it. All right?

12 MR. DORE: It will be kept, your Honor.

13 THE COURT: Okay. Let's go.

14 (The following proceedings were held in the
15 presence of the prospective jurors:)

16 (The prospective jurors were sworn.)

17 THE COURT: All right. Good morning. Welcome.
18 You are here as prospective jurors to sit on a criminal
19 case.

20 This is a criminal case that will be tried
21 against -- we are trying three defendants as opposed to
22 the usual one.

23 Normally, what we have is a statement of the
24 case jointly prepared by the attorneys which gives you an
25 overview of the case, basically lets you know whether or

1 not this is a patent infringement case or bank robbery
2 case. And it is, generally, just a couple of sentences
3 that accomplish nothing more than that. I have got bad
4 news for you.

5 I am going to read you the brief short
6 statement of the case jointly prepared by the attorneys.
7 The reason I am doing this is two-fold. There may be
8 something about this case, the facts of this case, the
9 crime, that may strike some of you close to home for
10 various reasons, that may simply make you not suited to
11 sit as jurors on this case. We need people who can come
12 in with an open mind with no preconceived notions or
13 anything who can listen to the evidence and make a fair
14 and impartial decision.

15 That is what each of you would want if you
16 were accused. You would want people with no preconceived
17 ideas who were fair, absolutely fair and impartial, who
18 weren't carrying so much baggage that they could not set
19 that aside and they could not render a fair and impartial
20 verdict.

21 If we can only do one thing in this building,
22 it must be to ensure that criminal defendants have a fair
23 trial. I can't think of anything else that is more
24 important that we do in this building. You all are about
25 to become a part of that.

1 I am not certain that we as citizens have a
2 greater obligation. All right. You know, last November,
3 we did that thing, and that is very important. But I
4 don't believe there is anything more important that we do
5 as citizens than sit as jurors in a criminal case, not a
6 case involving, you know, which deep pocket the money is
7 going to go into. This is important. So we are going to
8 go through this with some painstaking detail.

9 And I am going to give you the rules of the
10 game momentarily, but, first, let me let you know what
11 the case is about. If there is something about this case
12 that just strikes to your core, that makes you say, no,
13 this one, I can't do this one, I just can't do this one,
14 let us know. All right.

15 Okay. Here is what the lawyers have prepared.

16 Defendants Carlos Rivera, Jessica Medina and
17 Raul Prieto, collectively, the defendants, each are
18 charged in an indictment with separate violations of
19 federal law including violations of the Racketeer
20 Influenced and Corrupt Organizations Act known as RICO.
21 The defendants have entered a plea of not guilty to each
22 count with which they have been charged and are presumed
23 to be innocent.

24 The indictment alleges that the defendants
25 are members or associates of the Black Angels gang, a

1 long-standing street gang in Ontario, California. The
2 Black Angels gang allegedly maintains two subcliques made
3 up of younger members working their way up through the
4 gang. One of them is the Ontario Varrio Sur or OVS, and
5 the other is Angelitos Negros or Junior Black Angels.

6 The indictment alleges, among other things,
7 that the Black Angels gang and its associates are
8 continuously engaged in the distribution of narcotics
9 including methamphetamine. The indictment also alleges
10 that the gang taxes the profits of drug dealers and
11 others in the gang's territory which is alleged to be the
12 entire city of Ontario.

13 In addition, the indictment alleges that the
14 Black Angels gang maintains a supply of firearms to
15 enforce the gang's authority. The indictment charges
16 defendants Rivera, Medina and Prieto with violations of
17 law related to the Black Angels gang and separate crimes
18 for conspiring to distribute, distributing and/or
19 possessing with intent to distribute methamphetamine and
20 other controlled substances.

21 Specifically, defendants Rivera and Medina are
22 charged with violating the RICO act. Defendants Rivera,
23 Medina and Prieto are all charged with conspiring to
24 violate the RICO act as well as conspiring to distribute
25 methamphetamine and heroin.

1 Defendants Rivera and Medina are also charged
2 with possessing methamphetamine with the intent to
3 distribute that controlled substance. Defendant Rivera
4 is also charged with distributing methamphetamine with an
5 unlawful possession of a firearm and ammunition.

6 All right. That is the case.

7 Based upon just what you have heard so far
8 regarding what this case is about, because of something
9 in your personal history or background or that of a close
10 family member, is there something that you heard in here
11 that strikes so close to home, so to the core that you
12 absolutely cannot sit as a potential juror in this case?

13 I see a hand. Yes, ma'am. Your name?

14 THE PROSPECTIVE JUROR: Soussi Kochkerian

15 THE COURT: Yes. Ms. Kochkerian.

16 THE PROSPECTIVE JUROR: Yes. My husband,
17 ex-husband now, was indicted in 1995 in New York for
18 heroin possession, and it was found not guilty. But the
19 drama and all the pain that I suffered at that time
20 having my three kids and going through the trial, it was
21 really dramatic. And I don't think I can serve in a case
22 like this.

23 THE COURT: Or any criminal case, you mean?

24 THE PROSPECTIVE JUROR: Any criminal case.

25 THE COURT: Okay. And your husband was found not

1 guilty; right?

2 THE PROSPECTIVE JUROR: He was found not guilty.

3 THE COURT: You say this was 1995?

4 THE PROSPECTIVE JUROR: 1995 in New York.

5 THE COURT: Okay. All right. Thank you, ma'am.

6 Other hands?

7 THE PROSPECTIVE JUROR: Yes. My name is Mario.

8 Last name is Guerrero. My nephew actually was involved
9 with drugs, and just watching my sister going through the
10 pain, the agony of what he actually went through just
11 really affected the entire family. And so I am
12 definitely against any type of drugs.

13 So I don't feel that I would be right for
14 this.

15 THE COURT: Maybe I should have explained
16 something.

17 That offer was not a get-out-of-jury-duty-free
18 card because you are against drugs. All right. Let me
19 explain something. Last week we had a child pornography
20 case. Everyone is against child pornography so I guess
21 that eliminated the entire room. No, it does not.
22 Everyone is against drugs and the proliferation of drugs.
23 That does not eliminate the entire room. Okay.

24 So put those hands down. That isn't the issue
25 here. The issue is whether or not the government has

1 sufficient evidence and is able to put on sufficient
2 evidence to prove their case beyond a reasonable doubt
3 against these three people. That is all.

4 Now, what I was talking about is this.
5 Whether or not a member of your family had been beaten to
6 death by a gang member to the point where you cannot put
7 that out of your system. There is no way you are going
8 to give a suspected gang member a fair trial. That is
9 what I am talking about. Not I am against drugs, I am
10 against crime, I am against all kinds of misdeeds. That
11 is not what this is about. All decent society is against
12 that sort of thing. Okay.

13 Now, based upon what I have just said, hands?

14 Okay. I have got you. Yes, ma'am.

15 THE PROSPECTIVE JUROR: My name is Lan Tran. My
16 dad is in the hospital since Wednesday for brain and
17 stomach cancer treatment. I am on call from the hospital
18 and doctor because --

19 THE COURT: What is your name again.

20 THE PROSPECTIVE JUROR: Lan Tran.

21 THE CLERK: 54.

22 THE COURT: You guys have a problem?

23 MR. CEPHAS: No.

24 THE COURT: Go up to the third floor.

25 THE PROSPECTIVE JUROR: My sister-in-law was

1 killed in 1995 due to a robbery. Does that --

2 THE COURT: I'm sorry for your loss. I'm sorry.

3 THE PROSPECTIVE JUROR: Okay. But I don't know,
4 is it gang related or not.

5 THE COURT: You are asking me if your sister's
6 incident was gang related?

7 THE PROSPECTIVE JUROR: No. I don't know. So I
8 don't know that my case is related to this one or I mean,
9 any connection, I mean.

10 THE COURT: Wait a minute. When did this happen
11 to your sister?

12 THE PROSPECTIVE JUROR: 1995.

13 THE COURT: Okay.

14 THE PROSPECTIVE JUROR: In San Gabriel. But I
15 don't know that the suspect was gangster or not. I am
16 just saying.

17 THE COURT: How are you feeling about that right
18 now about this case?

19 THE PROSPECTIVE JUROR: No idea.

20 THE COURT: There you go. That is all I am
21 looking for. I want a whole room of people that they
22 don't know. What I don't want is someone in here saying,
23 oh, no, there is no way I am releasing those people. We
24 can't have that. Okay. I want I don't know. That is
25 the right answer.

1 THE PROSPECTIVE JUROR: Okay.

2 THE COURT: Thank you. By the way, yes.

3 THE PROSPECTIVE JUROR: Well, family who resides
4 in Ontario.

5 THE COURT: I am going to get there. I am going
6 to get there. And you bring up what you have just done
7 is exactly what I am going to.

8 MR. NAVARRO: Your Honor, I'm sorry. We need to
9 have the juror identify herself. We don't know who she
10 was.

11 THE COURT: What was your name, ma'am?

12 THE PROSPECTIVE JUROR: Patricia Yang.

13 THE COURT: Yang.

14 THE PROSPECTIVE JUROR: Yes.

15 THE CLERK: 39.

16 THE COURT: What is important is that we get
17 actually more information from you than less. What we
18 don't want to have happen and it does happen with
19 alarming regularity is that after a trial is over, it is
20 reported in the newspaper, some interview with a former
21 juror that they either occupied a position or possessed
22 certain information which all the parties would have
23 liked to have been privy to at the beginning of the trial
24 to assess their suitability to sit as jurors. But then
25 it comes out after the trial, and then we basically have

1 to have a do over. I would rather have all of this
2 information now. We would all like to have all of this
3 information now. So tell us too much rather than not
4 enough. Be honest.

5 If you feel -- in fact, I am fairly sure that
6 I am going to ask some questions that the answers to
7 which may be embarrassing, not as embarrassing as the
8 child porn case but embarrassing. We can discuss your
9 answers at sidebar. Okay. The purpose of this is
10 absolutely not to embarrass anyone. The purpose of this
11 is to find fair and impartial citizens who can listen to
12 the evidence in this case and decide whether or not the
13 government really has a case, and then I will deal with
14 that later. But all you are doing is sitting as triers
15 of fact. That is all. We are going to listen to the
16 evidence and make a decision as to whether or not the
17 facts are this way or the facts are that way. That is
18 all. It is not more than that.

19 And our concern is only with respect to your
20 suitability to sit as jurors in this case. Now, maybe
21 there is a trial going across the hall that you would be
22 better suited for. This isn't about whether or not you
23 are good people or bad people. It isn't about that at
24 all. It is just about is this the right case for you,
25 are you the right people to sit as jurors for these

1 people. That is all.

2 Okay. This is a magnificent opportunity. It
3 truly is, but whether you are selected or not has no
4 bearing upon whether you are good people or worthy
5 people. It is not about that. I am going to ask you
6 questions designed to determine whether or not you just
7 inherently are not suited. For example, you are the
8 uncle or aunt of one of the parties here. That is just
9 not going to work. Okay. Or that your sister is or
10 brother happens to be one of the prosecuting attorneys.
11 That is just not going to work. That is inherently
12 biased. Right. That is all this is about determining.
13 I am going to ask you those kinds of questions.

14 Now, I am going to give the lawyers an
15 opportunity to ask further questions of you, a bit more
16 subtle. Again, just answer the questions honestly,
17 please. Not designed to embarrass you or unnecessarily
18 intrude. I am not going to do it. I won't permit the
19 lawyers to do it, and we are going to get through this
20 thing as quickly as possible. All right.

21 THE PROSPECTIVE JUROR: Your Honor, were you going
22 to ask people if they didn't want to serve for another
23 reason other than something about the case?

24 THE COURT: Ask whether they wanted to serve or
25 didn't want to serve?

1 THE PROSPECTIVE JUROR: Or had an excuse.

2 THE COURT: Well, actually, I am surprised that
3 some things weren't mentioned upstairs or dealt with
4 upstairs. Let me explain something. I get called for
5 jury duty as well.

6 THE PROSPECTIVE JUROR: It is not about time. I
7 have a legitimate reason.

8 THE COURT: What is your name?

9 THE PROSPECTIVE JUROR: Suzanne Benedict.

10 THE COURT: And what is your reason?

11 THE PROSPECTIVE JUROR: I don't want to tell the
12 whole room.

13 THE COURT: All right. Then I will move on. I am
14 not exempt from jury duty. I show up when I get my
15 subpoena. When I am on jury duty -- you will see there
16 is only one name out there on that door. The work
17 doesn't continue in here. There is only one judge
18 assigned to this courtroom and it is me.

19 (The prospective juror exited the courtroom.)

20 THE COURT: I can't sit here and tell you that it
21 is your civic obligation, but I won't do the same thing
22 when I would not do the same thing. So do I have other
23 things to do? Yes, I have other things to do. Do you
24 have other things to do? I am sure you do. But we are
25 going to have to find a way, as I do, to carve out some

1 time. It is not asked of you often, but it is important.

2 Now, it is expected that we can probably get
3 through it with this thing within two weeks. That has
4 been the promise, and we will, we will get through this
5 thing in two weeks. My guess is that Frank upstairs in
6 the third floor has already time qualified you all, that
7 everyone here -- yes, sir.

8 THE PROSPECTIVE JUROR: Your Honor, I have a
9 business trip scheduled for Thursday of next week which
10 is right on the eighth day limit. And if this does go
11 beyond that, I will not be able to be hear.

12 THE COURT: What is your name, sir?

13 THE PROSPECTIVE JUROR: Mark Raudonis.

14 THE COURT: Here it is. 41.

15 THE CLERK: The one that walked out is No. 34.

16 THE COURT: Okay. Let's see if it is a problem.

17 Anybody else? Yes, sir. Your name?

18 THE PROSPECTIVE JUROR: Anthony Tran.

19 THE PROSPECTIVE JUROR: T-R-A-N.

20 THE COURT: Tran.

21 THE CLERK: 32.

22 THE COURT: Thank you. Yes, sir.

23 THE PROSPECTIVE JUROR: We have a family reunion
24 planned for Christmas week. I just hope it doesn't go
25 that far.

1 THE COURT: So do I. I have no intention of being
2 here. I said dos weeks.

3 THE PROSPECTIVE JUROR: My name is Nicole Austin.
4 I just had a question. I have two young children, and
5 child care doesn't pay for after 4:30 and I don't have
6 the money to pay for it so I was just wondering --

7 THE COURT: You bring up an interesting point. I
8 am going to mention this now. I am just going to throw
9 it out. We usually mention this to a much smaller group,
10 the jury. What we do in this courtroom is we offer the
11 jury the option of setting the hours.

12 I don't know why, but absolutely 100 percent
13 of the time, the jury opts for the early schedule where
14 they are out at 2:30 in the afternoon. Okay. I am just
15 throwing that out there. But all right.

16 Anybody else? Yes, ma'am?

17 THE PROSPECTIVE JUROR: I am Coleen Wolfe, and I
18 live in San Luis Obispo. My husband just went to
19 Michigan because his father is dying and I left my
20 two teenagers at home. Two weeks for them to be there by
21 themselves is a bit daunting.

22 THE COURT: Oh. I am sure they have good parents.

23 THE PROSPECTIVE JUROR: They do.

24 THE COURT: I am sure they are going to be fine.

25 THE PROSPECTIVE JUROR: Anyway, I am concerned

1 about that.

2 THE COURT: Are you now.

3 THE CLERK: 5.

4 THE COURT: How old you are the kids?

5 THE PROSPECTIVE JUROR: 20 and 16. I know. I
6 know. But you know how my 16 year old is. She is kind
7 of attracted --

8 THE COURT: I am going to do a book on excuses.

9 THE PROSPECTIVE JUROR: So sorry.

10 THE COURT: Okay. All right. We are going to
11 start this process seriously now.

12 Go ahead.

13 THE CLERK: When I call your name, if you can step
14 forward and take a seat in the box.

15 Number 1, Jorge M. Alvarez.

16 Janice Spence.

17 Jamela Gurican.

18 Mumei Wang.

19 Coleen F. Wolfe.

20 Thomas C. Hecht.

21 Candace Lowry.

22 Debra Cohen.

23 Karan Slingerland.

24 Claire Cruz Benavente.

25 Mark M. Rodriguez.

1 Nelson C. Willis.
2 Soussi Kochkerian.
3 Pete G. Roble.
4 Tony Diep.
5 Gary Deryl Jordan.
6 Gerald A. Williams.
7 Francisco A. Cruz.
8 Nichole Austin.
9 Brendan Edward Langley.
10 Bruce Honeybourne.
11 Teresa Newton Rathsam.
12 Joanne Gilbert.
13 Charles A. Bancroft.
14 Sherman Wang.
15 Nora C. Davis.
16 Mario A. Guerrero.
17 Maritere Satterlee.
18 Ronald J. Zanon.
19 Brian D. Viggianelli.
20 Anthony Tran.
21 Sharra L. Updike.
22 Suzanne Benedict.
23 THE PROSPECTIVE JUROR: Here. What do you want?
24 THE CLERK: Can you sit right at the end of the
25 second row.

1 THE PROSPECTIVE JUROR: I just realized I lost my
2 library book. Oh, God.

3 THE CLERK: And Jeremy Bowditch.

4 And, Ms. Benedict, if you could scoot over so
5 Mr. Bowditch could sit there. Thank you.

6 We are going to have one more person. Okay.
7 If I could have Mr. Bradley Van Dyne.

8 THE COURT: All right. First things, ladies and
9 gentlemen, I -- well, let me introduce the courtroom
10 staff as well. I am going to have the lawyers introduce
11 themselves and those seated at counsel table with them,
12 and we are also going to read to you from the trial
13 witness list. We will try to provide as much identifying
14 information as we can so you can ascertain whether or not
15 anyone who is scheduled to be a witness in this case is
16 someone personally known to you. And if so, then you
17 will raise your hands.

18 I am Judge Otis Wright. The boss of the
19 courtroom is Ms. Sheila English. The official court
20 reporter is Katie Thibodeaux.

21 And the government, plaintiff in this case, is
22 represented by Assistant United States Attorneys, and the
23 defendants are represented by their respective individual
24 defense counsel. And they are seated to your left.

25 Beginning with the government, introductions

1 of everyone at counsel table plus the reading of your
2 witness list.

3 MS. EL-AMAMY: Good morning. My name is Reema
4 El-Amamy. I represent the government along with Michael
5 Dore. He also represents the government. This is Steve
6 Walton. He works for the Drug Enforcement
7 Administration.

8 We have a witness list as well. It has a
9 number of people so bear with me, please. From the San
10 Bernardino Police Department, Imran Ahmed. Ontario
11 Police Department, Maynor Arana. Ontario Police
12 Department, Joshua Burks. Upland Police Department,
13 Travis Cotton. Ontario Police Department, Brice Devey.
14 Ontario Police Department, Matthew Gonzalez. San
15 Bernardino County Sheriff's Department, Erdem Gorgulu.
16 Ontario Police Department, Travis Hartman.

17 Spanish Language Specialist, Juan Lemus.
18 Ontario Police Department, Michael Lorenz. David Navarro
19 from Ontario, California. Ontario Police Department,
20 Christopher Martinez. San Bernardino Police Department,
21 Brian Olvera. Drug Enforcement Administration, Steve
22 Paris. Wiretap Technician, Michael Precup. Ontario
23 Police Department, Ron Watson. Ontario Police
24 Department, Westley Willemstyn. And Ontario Police
25 Department, Darren Williams.

1 THE COURT: Thank you, counsel. Mr. Cephas,
2 beginning with you, sir.

3 MR. CEPHAS: Good morning, my name is Dana Cephas.
4 I represent Raul Prieto. And, your Honor, there are
5 three additional Ontario Police Department officers I may
6 call.

7 THE COURT: Okay.

8 MR. CEPHAS: Scott Kocab, Anthony Ortiz and Paul
9 Burdnick, all from Ontario Police Department.

10 THE COURT: And seated with you at counsel table?

11 MR. CEPHAS: And seated with me at counsel table
12 is my client Raul Prieto.

13 THE COURT: All right. Thank you.

14 Mr. Walsh.

15 MR. WALSH: I am Joseph Walsh, and seated next to
16 me to my right is my client Jessica Medina.

17 THE COURT: All right. Thank you, sir.

18 Mr. Navarro.

19 MR. NAVARRO: Good morning. My name is Angel
20 Navarro. I am an attorney in Los Angeles. This is my
21 client Carlos Rivera.

22 THE COURT: All right. Thank you, sir.

23 Now that you have been introduced to
24 everyone who is going to be in the courtroom for the
25 foreseeable future, any recognition of even people on the

1 witness list? No hands. All right. Excellent.

2 Now, each of you has a -- well, maybe you do,
3 maybe you don't. Certainly, on the monitors you see a
4 list of questions. We would like each of you to provide
5 the information on the screen to those questions, and
6 when you get to the residence, of course, city of
7 residence. We are only looking for the city. We are not
8 looking for your home address.

9 By the way, in that regard, we have got a list
10 of your names and the cities that you currently live in.
11 We would also be interested in knowing whether or not any
12 of you have previously resided in the city of Ontario.
13 Okay.

14 Go ahead, sir.

15 THE PROSPECTIVE JUROR: My name is Jorge Mario
16 Alvarez. I live in Lancaster, California. I am
17 eligibility worker. Work for LA County. I am married.
18 Three children.

19 My wife is a housewife. All my children go to
20 school. Yeah. I served on a jury before in a civil and
21 criminal, and we reached a verdict both of the times.

22 I don't have no members of family in law
23 enforcement. No. 8, no. No. 9, no.

24 THE COURT: Thank you, Mr. Alvarez. Now, if you
25 will pass the microphone to your right.

1 THE PROSPECTIVE JUROR: My name is Janice Spence.
2 I live in Long Beach. I am a waitress for two years at
3 the same place. I am single. I have no children.

4 I have never served on a jury before. My mom
5 and dad both served for the military. I don't know if
6 that counts as law enforcement. I haven't had any family
7 members have negative encounters. And no family members
8 have been subject of criminal investigation.

9 THE COURT: All right. Thank you, Ms. Spence.

10 THE PROSPECTIVE JUROR: Hello. My name is Jamela
11 Gurican. I am from Los Angeles. I am a product manager
12 for a bank in L.A. I am married. No children. And I
13 have not served on a jury before.

14 No on No. 7. No on No. 8. And yes on No. 9.

15 THE COURT: All right. Thank you.

16 You said yes on No. 9?

17 THE PROSPECTIVE JUROR: Yes.

18 THE PROSPECTIVE JUROR: My name is Mumei Wang.
19 And I live in Rowland Heights, and I am working for L.A.
20 Superior Court. For how long, for 12 years. And I am
21 married. My husband is retired. I have one son in
22 college. I have never served on the jury before. No to
23 question No. 7. No to question No. 8. And no to
24 question No. 9.

25 THE COURT: Thank you.

1 THE PROSPECTIVE JUROR: You are welcome.

2 THE PROSPECTIVE JUROR: I am Coleen Wolfe, and I
3 live in San Luis Obispo. I am a nurse practitioner in
4 the present job for a year-and-a-half.

5 My husband works for a nonprofit with mentally
6 ill. He also serves at the prison. We have CMC up
7 there. I have two children which you all know about. I
8 have never been on a jury before. No family members or
9 close friends in law enforcement. 8 and 9, negative.

10 THE COURT: Thank you, Ms. Wolfe.

11 THE PROSPECTIVE JUROR: My name is Thomas Carson
12 Hecht. I live in Manhattan Beach. I am an electrical
13 engineer. I have been an engineer for 37 years. My wife
14 is also an engineer. I don't have grown children.

15 I have served on two criminal juries, and both
16 times they reached verdicts. No family members in law
17 enforcement. No on 8 and 9.

18 THE COURT: Thank you.

19 THE PROSPECTIVE JUROR: My name is Candace Lowry,
20 and I live in Covina. I am currently working in risk
21 management at a bank. And I have been there for 12
22 years. I am not married. Two children. My daughter is
23 30, and she is a GM for Gap, Inc.. And my son is a chef.

24 Never been on a jury before. My next door
25 neighbor is actually a police officer for Glendora. And

1 no to both 8 and 9.

2 THE COURT: Thank you.

3 THE PROSPECTIVE JUROR: My name is Pete Roble also
4 known as Pedro Roble. I live in the city of Downey. And
5 I have never lived in Ontario before. I am currently
6 retired for five years, and before that I worked as
7 supervising auditor in L.A. Unified School District. I
8 am married, and my spouse is registered nurse. I have
9 three grown children, and my eldest daughter is a
10 director of the L.A. County Museum. The second one, the
11 daughter is a vice-president of an advertising company.
12 My third son just passed the California bar exams, and I
13 have served as an alternate juror before. And my answer
14 to 7, 8 and 9 is no.

15 THE COURT: Thank you, sir.

16 THE PROSPECTIVE JUROR: My name is Soussi
17 Kochkerian. I live in Burbank, California. And my
18 current occupation is an escrow officer, and I have been
19 in this job for two weeks. I'm sorry. I have -- I am
20 single, and I have three childrens. My oldest one owns a
21 tire store. My second and my son, they go to college. I
22 never served in a jury. And a family member, my son
23 right now is in trial. He is going through for assault,
24 and his trial is going to be on the 10th of this month.

25 Any member of your family, yeah. And then No.

1 9, same question, the same answer, about my son's case.

2 THE COURT: All right. Thank you.

3 THE PROSPECTIVE JUROR: My name is Nelson Clay
4 Willis. I live in Santa Barbara. I am currently a
5 self-employed investor for 60 years. Let's see. I am
6 married. I have one step-daughter and two sons. The
7 stepdaughter is a hair stylist in Santa Barbara. My
8 eldest son is an architect working for a firm in Japan
9 and also for a software start up company in San
10 Francisco. My youngest son is maybe getting a job at a
11 venture philanthropy company in Oakland. I have never
12 served on a jury. I have been standing here before but
13 never got selected.

14 I have a -- my brother-in-law is a superior
15 court judge or was a superior court judge in Honolulu.
16 My sister-in-law was a federal, not federal, I believe
17 state prosecutor in Honolulu and worked for the state
18 district attorney. My cousin is a United States Senator.
19 I have never had negative encounters with the criminal
20 justice system, and I have never been the subject of a
21 criminal investigation.

22 THE PROSPECTIVE JUROR: Mark Rodriguez. Valencia.
23 Unemployed, single, no kids. Never served on a jury
24 before. 7, 8 and 9 are no.

25 THE COURT: Thank you.

1 THE PROSPECTIVE JUROR: My name is Claire Cruz
2 Benevente. Live in Simi Valley. I have never lived in
3 Ontario. AVP at a bank for about 10 years. Married. My
4 husband is unemployed.

5 Children are in school. Number 6, 7 and 8 and
6 9 are no.

7 THE PROSPECTIVE JUROR: Karan Slingerland. I live
8 in Bellflower. My current occupation, I am a project
9 manager for a computer training company. I am single, no
10 children. I had served on a jury before. It was a civil
11 case, and a verdict was reached.

12 And no to 7, 8 and 9.

13 THE COURT: Thank you.

14 THE PROSPECTIVE JUROR: Debra Cohen. Burbank
15 California. I am a teacher. Single. 6 through 9, no.

16 THE COURT: 6 through 9.

17 THE PROSPECTIVE JUROR: Never served on a jury.

18 THE COURT: Wow. Okay.

19 THE PROSPECTIVE JUROR: My name is Tony Diep. I
20 live in San Gabriel. I am a chef at my mom's restaurant.
21 I am single. No. I have been on the jury before, and it
22 went to mistrial. 7, 8 and 9, no.

23 THE COURT: Thank you.

24 THE PROSPECTIVE JUROR: Good morning. My name is
25 Gary Jordan. I live in Paso Robles, California. My

1 current occupation, I am a retired internal affairs
2 investigator for the Department of Corrections, State of
3 California. I am currently a pastor of a church in Paso
4 Robles. My wife is a correctional counselor at a state
5 prison here in the state.

6 I have four grown children. My oldest
7 daughter is a correction officer at a state prison. My
8 oldest son works in the oil fields in North Dakota. My
9 youngest daughter works for Starbucks. My youngest son
10 is in the retail business. I have never served on a
11 jury. Family members in law enforcement, my wife and my
12 oldest daughter. And no to 8 and 9.

13 THE COURT: All right. Thank you, Mr. Jordan.

14 THE PROSPECTIVE JUROR: My name is Gerald Allan
15 Williams, San Luis Obispo, California. Been in
16 construction for 38 years. My wife is retired. I have
17 two grown children. One is in construction. The other
18 is an architect. I have served on a criminal jury, and
19 we reached a verdict.

20 7, 8 and 9, answer no.

21 THE COURT: Thank you.

22 THE PROSPECTIVE JUROR: My name is Francisco Cruz.
23 I live in Los Angeles. I am being a carpenter for 33
24 years. I am married. My wife is a nurse aide. I have
25 six kids. First one is housewife. Second one is

1 computer technician. Third one works in Ralphs. And the
2 other one just started studying to be a chef. The other
3 one is in high school, and another daughter is married.
4 I have three grandkids. From 6 to 9, no.

5 THE COURT: Thank you.

6 THE PROSPECTIVE JUROR: My name is Nicole Austin.
7 I live in Pasadena. I am a special education school bus
8 driver for 13 years. Not married. Two kids, both in
9 elementary school.

10 I have never served on a jury. I have a few
11 family members that are in law enforcement and my best
12 friend. My aunt is a detective for the Pasadena Police
13 Department. My cousin is an L.A.P.D. officer, and my
14 best friend is a Los Angeles Sheriff Deputy. 8 and 9,
15 no.

16 THE COURT: Thank you, Ms. Austin.

17 THE PROSPECTIVE JUROR: My name is Brendan
18 Langley. I am from Santa Barbara. I work as a film and
19 social media coordinator for a housing company there for
20 about two years. I am not married. I don't have any
21 children. I have never served on a jury. 7, 8 and 9,
22 no.

23 THE COURT: Okay.

24 THE PROSPECTIVE JUROR: My name is Bruce
25 Honeybourne. I live in La Mirada. I do CT scanning in

1 the medical field. I am married. I have three children.
2 They are in college right now, three of them, or two, one
3 is out. I have never served on a jury. And I have
4 two close friends that are deputy sheriffs. No to No. 8,
5 and no to No. 9.

6 THE COURT: Thank you.

7 THE PROSPECTIVE JUROR: My name is Teresa Rathsam.
8 I live in Simi Valley. I am a program director at a day
9 program for adults with developmental and physical
10 disabilities and have been for 19-and-a-half years. My
11 husband is a safety manager at a warehouse. I have
12 two small school children.

13 I never served on a jury. My father was a
14 Washington state trooper. And 8 is yes, and 9 is yes.

15 THE COURT: Okay.

16 THE PROSPECTIVE JUROR: My name is Joanne Gilbert,
17 and I am from the city of Northridge. My current
18 occupation is I am a research clinical trials manager. I
19 have been working for 13 years in that capacity. My
20 husband -- I am married. My husband is a university
21 professor. I have three grown children. One is a
22 special education coordinator in a middle school. The
23 other is an engineer, and the third is a research
24 analyst.

25 I have served on a jury in a civil case, and

1 we were able to reach a verdict. I have a close friend
2 who is in law enforcement as an investigator. And 8 and
3 9 are no.

4 THE PROSPECTIVE JUROR: Charles Anderson Bancroft.
5 Long Beach. I am a longshoreman for Pacific Maritime
6 Association. Girlfriend that works in shipping and
7 receiving. No children. Never served on a jury. My
8 grandfather was an Alameda County superior judge. My
9 father graduated from Berkeley with a law degree. I was
10 arrested about four years ago. And 9, no.

11 THE COURT: Thank you.

12 THE PROSPECTIVE JUROR: Sherman Wang. Los
13 Angeles. I am a department administrator and also
14 project manager, 28 years. Married. Spouse is a life
15 coach. One child. College, I have served on a civil
16 case. It was dismissed. I have an acquaintance that is
17 a police officer. And 8 and 9, no.

18 THE COURT: Thank you, Mr. Wang.

19 THE PROSPECTIVE JUROR: My name is Nora Davis. I
20 live in Santa Monica. I am a student of three years. I
21 am married. I have no children. I have never served on
22 a jury. I have a close friend who is a police officer in
23 Baltimore. And no to 8 and 9.

24 THE COURT: Thank you.

25 THE PROSPECTIVE JUROR: Name is Mario Alberto

1 Guerrero. I currently live in Santa Barbara. I am a
2 customer service manager for a local bank.

3 THE COURT: I am going to have to interrupt you.
4 We are going to have to take a break. Okay. I am going
5 to read to the jury from the Ninth Circuit Model Jury
6 Instructions, specifically, instruction 2.1 so you don't
7 have to take this.

8 (The court reads Instruction 2.1 to the prospective
9 jurors.)

10 (Recess from 10:31 to 10:50 a.m.)

11 (The following proceedings were held in the
12 presence of the prospective jurors:)

13 THE COURT: All right. Back on the record. The
14 record will reflect that the prospective jurors are here,
15 all defendants are here as are all counsel.

16 Did we leave off with Mr. Guerrero? Yes, we
17 did. Sorry for the interruption, sir.

18 THE PROSPECTIVE JUROR: Mario Alberto Guerrero. I
19 live in Santa Barbara. Customer service manager for a
20 bank. Yes, married. I have two children. One in
21 college, one about to graduate from high school. No to
22 6. No to 7. No to 8, and no to 9.

23 THE COURT: All right. Thank you, sir.

24 THE PROSPECTIVE JUROR: My name is Maritere
25 Satterlee. I am from San Bernardino. I work at Santa

1 Barbara City College for nine years. I am married. My
2 husband is retired. He was a high school teacher. I
3 have two grown children. The oldest is a musician and
4 has his own business. The youngest is a musician too,
5 and he is an engineer. I have never served on a jury.
6 And 7, 8 and 9, no.

7 THE COURT: All right. Thank you, ma'am.

8 THE PROSPECTIVE JUROR: I am Steve Gramme from
9 Thousand Oaks, California. I am a consultant for Lexis
10 Nexus. Clients including federal, state and local courts
11 and law enforcement. Married. No children. I have
12 never served on a jury. My cousin's wife is a clerk of
13 the court for U.S. federal court in San Diego. No for 8
14 and 9.

15 THE COURT: Thank you.

16 THE PROSPECTIVE JUROR: I am Ronald Zanon. I live
17 in Long Beach. I am currently a maintenance supervisor
18 for LADWP for 26 years. Divorced, two children. One is
19 a courier for Fed Ex. One is a senior in high school.
20 Served on a jury once before, a civil case. We did reach
21 a verdict. I have an uncle who is a federal officer in
22 Colorado. No for 8, and no for 9.

23 THE COURT: Thank you.

24 THE PROSPECTIVE JUROR: My name is Brian David
25 Viggianelli. I am from Santa Clarita, California. I

1 work for the House of Representatives. A little under a
2 year. I am not married. Have no children. Never served
3 on a court before. No, 7. No, 8 and 9.

4 THE PROSPECTIVE JUROR: My name is Anthony Tran.
5 I live in the city of Arcadia. My current occupation is
6 building code enforcement and construction oversight for
7 the State of California. I have been there for about
8 six years. I am married, two children. One in
9 elementary school, and one in middle school. I never
10 served on jury before. And no to 7, 8 and 9.

11 THE PROSPECTIVE JUROR: My name is Sharra Updike.
12 I live in Burbank. I am an account executive in Digital
13 Cinema, and I have been doing it for six years.

14 I am married. My husband is an editor. We
15 have one small child. I have served on a jury before,
16 and it was a civil trial, and we did reach a verdict. No
17 to 7 through 9.

18 THE PROSPECTIVE JUROR: Suzanne Benedict, Los
19 Angeles, California. Research assistant. Widow. One
20 17-year-old son. No. No. No. No.

21 THE COURT: Is there something you wanted to talk
22 about?

23 THE PROSPECTIVE JUROR: Pardon?

24 THE COURT: Was there something you wanted to talk
25 about? The urgency is gone?

1 THE PROSPECTIVE JUROR: I don't know what you are
2 referring to.

3 THE COURT: That is why I was headed to the
4 sidebar.

5 Do you no longer wish to talk about it?

6 THE PROSPECTIVE JUROR: Oh. You mean you want to
7 talk about it now?

8 (The prospective juror entered the well.)

9 THE CLERK: Excuse me, ma'am. Do not walk there.
10 No. Calm down. Do not walk through here, again.

11 THE PROSPECTIVE JUROR: I did not know that.

12 THE CLERK: Well, if you just calm down. Do not
13 represent me or my courtroom.

14 THE PROSPECTIVE JUROR: The word is disrespect, I
15 think.

16 THE CLERK: You know what I mean.

17 (The following proceedings were held at sidebar
18 outside the presence of the prospective jurors:)

19 THE PROSPECTIVE JUROR: So I don't want to be on
20 this jury because I have bipolar syndrome.

21 THE COURT: Okay. Are you on medication?

22 THE PROSPECTIVE JUROR: Uh-huh.

23 THE COURT: How does that work? How well does it
24 work?

25 THE PROSPECTIVE JUROR: Sometimes it works.

1 Sometimes it doesn't. Like right now, it is not working
2 really well.

3 THE COURT: Okay. Then tell you what, you can
4 return to the third floor. You are certainly excused
5 from this trial. All right.

6 THE PROSPECTIVE JUROR: Uh-huh.

7 THE COURT: That is out that door up the
8 escalator.

9 THE PROSPECTIVE JUROR: Which way am I allowed to
10 walk?

11 THE COURT: In case, Katie, you didn't get it for
12 the record, she indicated that she has bipolar disorder
13 and that the medication she is taking is not always
14 effective. I can attest to that.

15 (The following proceedings were held in the
16 presence of the prospective jurors:)

17 THE COURT: Fill that seat. Okay.

18 THE CLERK: You want one more in the place of?

19 THE COURT: Yes.

20 THE CLERK: If I can have Jennifer Carpenter.

21 THE PROSPECTIVE JUROR: My name is Jennifer
22 Carpenter. Live in Santa Monica. Currently unemployed.
23 I was a stay-at-home mom for 23 years. 22 months as a
24 political report specialist and quit about three weeks
25 ago because I got bored. Sorry. Married. Have

1 four children. Ages 16 to 25. Two in college, oldest
2 is at Hertz, and youngest is a sophomore in high cool.

3 Have never served on a jury. It pleaded out
4 or something. I don't really know. We never had to go
5 to jury. Nobody in law enforcement. Nothing with
6 negative criminal justice system. And no, no criminal
7 investigations.

8 THE COURT: All right. Thank you.

9 THE PROSPECTIVE JUROR: My name is Jeremy
10 Bowditch. I live in L.A.. I am an editor. Not married.
11 No kids. And no to the rest.

12 THE COURT: Thank you.

13 THE PROSPECTIVE JUROR: My name is Brad Van Dyne.
14 I live in Palmdale. I am an air traffic controller for
15 23 years. I am married. My wife is just a housewife
16 now. She has quit her job. I have three grown children,
17 and they are -- one is a manager at a retail store, and
18 the other one is a baker. And the other one does
19 accounts for a construction office. I have served on
20 two juries, once as an alternate, and once on the jury.
21 Criminal, both. And they did reach a verdict.

22 I have a few friends in law enforcement, well,
23 most of them are retired now. So they are not in there
24 anymore. No negative encounters and never been subject
25 to a criminal investigation.

1 THE COURT: All right. Thank you, sir.

2 All right. Obviously, I am -- well, we are
3 all interested in knowing whether or not any of you have
4 connections to the city of Ontario, whether the city of
5 Ontario is a business client, whether you formerly worked
6 for the city of Ontario, whether or not anyone in your
7 family worked for the city of Ontario, whether or not
8 close personal friends or members of your family live or
9 did live in the city of Ontario.

10 Anyone with any kind of connection with the
11 city of Ontario, but I would like to limit it -- thank
12 you. I would like to limit it to the people in the jury
13 box and those first two rows. All right.

14 Hands? No hands.

15 Okay. A number of you have friends and or
16 family members with connections to law enforcement or are
17 members of law enforcement, and one is a federal officer.
18 And, obviously, we are going to have a number of people
19 from law enforcement testifying in this case. What the
20 defense wants to know, I guess what we all want to know
21 is whether or not any of you are unable to give law
22 enforcement testimony the same level of importance as
23 nonlaw enforcement witnesses. In other words, no greater
24 weight will be accorded their testimony, that you won't
25 simply conclude without careful examination and scrutiny

1 whether or not their testimony sounds truthful, sounds
2 credible. Or will you put everyone through that same
3 crucible of determining the believability of their
4 testimony. Does law enforcement get an advantage.

5 Let me make, I am going to make one carve out.
6 We can all assume that law enforcement officers while
7 they are conducting their investigations and certainly
8 while they are in the process of whatever activities are
9 involved in in making an arrest are probably making
10 careful note of certain things, distances, times, a lot
11 of descriptive things that may prove relevant later on,
12 and they may make contemporaneous notes of those things.
13 And, of course, they will then refer to their notes or
14 reports prior to testifying in court. Now, yes, they
15 will probably have a much better recollection of those
16 things that they actually made notes of much better than
17 you and I who have not made any notes and are trying to
18 recall something from many months ago.

19 Putting that aside, is there anyone here who
20 just simply gives much greater credence to testimony from
21 law enforcement personnel simply because they are law
22 enforcement personnel?

23 THE PROSPECTIVE JUROR: I'm sorry. Can you repeat
24 the question?

25 THE COURT: Are you kidding me? You get out of

1 here.

2 (Laughter.)

3 THE COURT: All right. I don't have any notes
4 here that you have got any close friends or family
5 members in law enforcement.

6 THE PROSPECTIVE JUROR: No.

7 THE COURT: Then, for any other reason, do you
8 happen to -- do you tend to believe that law enforcement
9 officers will tend to be more truthful on the stand than
10 nonlaw enforcement personnel?

11 THE PROSPECTIVE JUROR: I don't think so.

12 THE COURT: Okay. Anybody?

13 THE PROSPECTIVE JUROR: Not to say that I would
14 give law enforcement either more weight or less weight,
15 but I would certainly consider it different than someone
16 else that wasn't in that position.

17 THE COURT: Can you explain?

18 THE PROSPECTIVE JUROR: I feel like -- it is a
19 different position than an ordinary citizen
20 eye-witnessing something. So I would -- I think I would
21 give it a different kind of consideration than an
22 ordinary citizen.

23 THE COURT: Like an ordinary investor?

24 THE PROSPECTIVE JUROR: Yes.

25 THE COURT: They tend to be more credible than

1 ordinary investors?

2 THE PROSPECTIVE JUROR: I just think I would
3 consider it differently. It would color. It would have
4 a different color to it.

5 THE COURT: When you say consider it differently,
6 what do you mean?

7 THE PROSPECTIVE JUROR: By virtue of their
8 training, employment, position, I would weigh that in my
9 consideration of their testimony. And I am not saying
10 that would give them more credibility or less
11 credibility, it would just give me a different reference
12 point from them compared to an ordinary citizen to have
13 that training and position.

14 THE COURT: All right. Anybody else on this issue
15 of law enforcement? Okay. Let me skip to something
16 else.

17 I heard that a couple of you have teenagers.
18 Any of you willing to admit openly or we can do it at
19 sidebar whether or not your teenagers or any teenagers in
20 your family have, let's put it this way, themselves, have
21 friends who are members or associates of street gangs?
22 Maybe not themselves but know people who are? Any hands?

23 Anybody in here, themselves, close family
24 member, personal friends ever been victimized by members
25 of a street gang? No hands.

1 Anybody here, themselves, family members,
2 close personal friends ever had their property defaced by
3 graffiti? Uh-huh.

4 Long Beach?

5 THE PROSPECTIVE JUROR: Yes.

6 THE COURT: I'm sorry. Yes. Ms. Spence.

7 THE PROSPECTIVE JUROR: Oh. It just happens that
8 I live in an area where there are gang members, and they
9 like to like do the turf thing. So on like fences in our
10 neighborhoods, they will, like, write their gang symbols.
11 And, like, I have called a couple of times to have them
12 removed because I just think it is ugly and disgusting so
13 just my preference on that with the graffiti.

14 THE COURT: What if there are allegations in this
15 case that the defendants may be affiliated with criminal
16 street gangs? Is that going to affect your ability to be
17 fair and impartial as you weigh the evidence to reach a
18 decision as to whether or not the government has proved
19 its case against these individuals?

20 THE PROSPECTIVE JUROR: I think that I can
21 definitely still be impartial about it because somebody
22 spraypainting a fence is a little bit different than
23 somebody selling drugs and carrying weapons.

24 THE COURT: Okay. Thank you.

25 THE PROSPECTIVE JUROR: I have a commercial

1 property in Santa Monica that is constantly getting
2 graffitied that has cost me a considerable amount of
3 money to repair. They scratch large plate glass windows.
4 And I am always concerned about property value, and I
5 feel that that diminishes my property value.

6 THE COURT: Okay. Mr. Willis, same question that
7 I asked Ms. Spence, how is that going to affect your
8 ability to simply weigh the evidence that the government
9 is going to produce and make a fair and impartial
10 determination as to whether or not it has a case and has
11 proved its case against these three individuals?

12 THE PROSPECTIVE JUROR: That graffiti, the crimes
13 against me, I don't think would affect it. If I were
14 convinced the defendants were gang members, that may
15 color my view of them.

16 THE COURT: All right. It is not about -- I am
17 going to make something clear not just to you,
18 Mr. Willis, but for everyone. This isn't about would I
19 like to go to dinner with these people. Okay?

20 THE PROSPECTIVE JUROR: I understand.

21 THE COURT: All right. Not about that at all, and
22 nor will a vote either way require that you do so. This
23 is about has the government proven each and every one of
24 the elements necessary to establish these crimes. That
25 is all. Can you do that?

1 THE PROSPECTIVE JUROR: Your reading of what you
2 read first?

3 THE COURT: Yes.

4 THE PROSPECTIVE JUROR: Maybe I misunderstood it.
5 It seemed like one of their crimes was being a gang
6 member according to the RICO statutes. Is that true? Is
7 one of the crimes being gang members?

8 THE COURT: All right. One of the things that you
9 are going to have to determine, all right, is their
10 status within this organization. You are going to have
11 to up or down with respect to that. They either belong
12 to or they do not belong to this organization, gang.

13 THE PROSPECTIVE JUROR: Is that a crime?

14 THE COURT: It depends on the nature and
15 characteristics of the organization. You belonging to a
16 church is probably okay. You belonging to other
17 enterprises which are solely engaged in committing crimes
18 probably isn't okay.

19 So your status is going to be important. The
20 determination of their status is an issue for you. Now,
21 simply because they are accused and simply because your
22 property has been victimized, are you going to somehow do
23 some strange calculus and go my property has been
24 damaged, they have been accused of being part of an
25 organization that vandalizes, tag, you are it, and I am

1 going to vindicate my damaged property?

2 THE PROSPECTIVE JUROR: No, I am not. But if
3 being a gang member is a crime and they prove that, I
4 would be willing to, you know, convict them if that is
5 indeed the crime, being a gang member and that was proven
6 to me.

7 THE COURT: All right. Just being a gang member
8 isn't a crime. All right.

9 THE PROSPECTIVE JUROR: Okay. So if they are
10 proven gang members --

11 THE COURT: Oh, gosh. Being a gang member per se
12 is not a crime. All right? There are gangs and there
13 are gangs. Knights of Columbus is sort of a benign gang,
14 but, you know, it is not a crime simply belonging to an
15 organization.

16 THE PROSPECTIVE JUROR: I understand that.

17 THE COURT: The purpose, function, daily
18 activities, et cetera, of this organization, okay, that
19 may be criminal, and that is why we talked about RICO.
20 All right. And if this is an enterprise that it is
21 devoted to or engaged in criminal activities and you are
22 part of that enterprise, then you have a problem. That
23 will be what you have to determine but based upon what
24 you hear in court.

25 THE PROSPECTIVE JUROR: What you are asking me is

1 I -- again, I want to be clear. If there is no other --
2 I believe I read there was somebody accused of carrying a
3 firearm. So that is not proven, but it is proven that he
4 is just a gang member and has not committed any other
5 actions other than belonging to this gang and the gang
6 has proven to me that it is a criminal activity and this
7 man belongs to it, is that a crime?

8 THE COURT: Okay. Let me first say, we are
9 getting so far ahead of ourselves it is not funny. All
10 right. And I don't even want to come close to answering
11 that question. Let me simply ask you this. Your
12 property has been vandalized. You probably aren't even
13 sure who did it?

14 THE PROSPECTIVE JUROR: I have no idea.

15 THE COURT: It may have been a retired nun who
16 sneaks around at 3:00 o'clock in the morning.

17 (Laughter.)

18 THE PROSPECTIVE JUROR: Well, the police
19 department when I called them said, well, it is this gang
20 and that gang.

21 THE COURT: May have been a rival police
22 department. Anyway, here is the deal. I just want to
23 know, we all want to know whether or not that has
24 affected you so deeply that you simply will vote to
25 convict anyone who is even accused of being in a gang

1 because you think, my God, you are no different than the
2 people who vandalized my property.

3 THE PROSPECTIVE JUROR: No, I don't think so.

4 THE COURT: That is all I was getting at. All the
5 rest of this, forget that conversation. Okay.

6 Anybody else, any connections with Ontario,
7 anybody here who themselves feels they have been
8 victimized by gang activity?

9 All right. Let's talk about some of the
10 negative encounters with law enforcement.

11 Ms. Kochkerian, your son is going to -- he
12 is going to be going to trial. So far, do you feel he
13 has been treated fairly by the system?

14 THE PROSPECTIVE JUROR: No.

15 THE COURT: You do not feel he has been treated
16 fairly by the system?

17 THE PROSPECTIVE JUROR: No, I do not.

18 THE COURT: Now, the system, and it is a system
19 for a reason because it has a number of component parts
20 and a criminal proceeding, of course, begins with law
21 enforcement making a decision to make an arrest. And
22 before it ever goes to trial, of course, then we have got
23 the intervention of a prosecuting agency who will take a
24 look at everything, make a determination as to whether or
25 not probable cause exists to take this thing further.

1 If, indeed, we are talking about a felony,
2 then there is yet another layer where there is a
3 preliminary hearing before a judge and the prosecution
4 has to put on their evidence and the judge will make a
5 determination as to whether or not there is sufficient
6 evidence to believe the crime has been committed and that
7 this individual committed it. And if you get past that
8 stage, then we go to trial in Superior Court.

9 So it is the entire system. All right. What
10 part of the system do you take issue with?

11 THE PROSPECTIVE JUROR: Actually, I am not too --
12 actually -- it is not a trial yet.

13 THE COURT: I know. That is on the 10th.

14 THE PROSPECTIVE JUROR: It is a pretrial as to he
15 was a minor when the incident happened, and then he was
16 17, and, now, the prosecutor is trying to charge him as
17 an adult because he is 18 now. So, throughout, we went
18 through over a year of they could not do anything while
19 he was a minor. So they told him, even threatened him as
20 to we going to charge you as an adult if you don't plead.
21 And he did not believe that he was guilty. So he says I
22 will go to trial. And even threatened that they will
23 charge him as an adult. And he can face --

24 THE COURT: So in answer to my question as to what
25 part of the system you take issue with, it is the

1 prosecutor agency?

2 THE PROSPECTIVE JUROR: The district attorney.

3 THE COURT: That is the prosecuting agency. All
4 right. Is that the only part of the system that you
5 think so far treated your son unfairly?

6 THE PROSPECTIVE JUROR: Correct.

7 THE COURT: We have prosecutors sitting here. Not
8 the same prosecuting agency. All right. This is the
9 United States Attorney's Office, and the United States
10 Department of Justice. This is not some --

11 THE PROSPECTIVE JUROR: I had experience with that
12 too, your Honor.

13 THE COURT: With the United States Department of
14 Justice?

15 THE PROSPECTIVE JUROR: In New York, the federal
16 court with my ex-husband.

17 THE COURT: That's right. His indictment.

18 THE PROSPECTIVE JUROR: Right.

19 THE COURT: That is the grand jury that does that.
20 Citizens like you issue an indictment.

21 THE PROSPECTIVE JUROR: Right.

22 THE COURT: Your feelings about, I guess it is the
23 Los Angeles County District Attorney's office, is that
24 going to spill over now and affect the way you view the
25 evidence being presented by the U.S. Attorney's Office in

1 this case?

2 THE PROSPECTIVE JUROR: I just -- I just think I
3 don't believe that I will be fair to make a decision
4 because of all the anger I have. I'm sorry.

5 THE COURT: Okay. Fair about which? There is a
6 whole lot of decisions that we are talking about here. I
7 have only asked you one question with respect to just
8 one issue. Will you be able to look at the evidence that
9 the government presents in this case fairly and
10 impartially?

11 THE PROSPECTIVE JUROR: I will still have a
12 feeling that there is something that they are doing
13 wrong.

14 THE COURT: Even though this is an entirely
15 different agency?

16 THE PROSPECTIVE JUROR: Correct.

17 THE COURT: So is your feeling of distrust against
18 all government entirely?

19 THE PROSPECTIVE JUROR: Yes. I am being honest,
20 your Honor.

21 THE COURT: Okay. No. That is good.

22 THE PROSPECTIVE JUROR: Maybe I am a little
23 clouded, but I am just being honest with you.

24 THE COURT: Okay. That is fine. Thank you.

25 I thought there was someone else who had had a

1 negative encounter with law enforcement or the criminal
2 justice system.

3 Yes, ma'am.

4 THE PROSPECTIVE JUROR: I mean I answered yes to
5 both 8 and 9.

6 THE COURT: That's right. An ongoing criminal
7 investigation of some kind?

8 THE PROSPECTIVE JUROR: Yeah. It was with my
9 brother.

10 THE COURT: Hang on. What was your name, ma'am?

11 THE PROSPECTIVE JUROR: Teresa Rathsam.

12 THE COURT: Okay. And who did this involve?

13 THE PROSPECTIVE JUROR: My brother.

14 THE COURT: How old is your brother roughly? Just
15 roughly? 12? 20?

16 THE PROSPECTIVE JUROR: 49.

17 THE COURT: All right. Is this an ongoing
18 situation?

19 THE PROSPECTIVE JUROR: It has been.

20 THE COURT: It has been. All right. And have
21 your brother's difficulties left you with a sour taste in
22 your mouth regarding any aspect or any component of the
23 criminal justice system?

24 THE PROSPECTIVE JUROR: Not the criminal justice
25 system but just the criminals.

1 THE COURT: We have established Mother Teresa
2 good, criminals bad. There was someone else. Some --
3 thank you. There was someone else who answered yes to
4 Question 9.

5 MR. WALSH: I believe it was Juror No. 3, your
6 Honor.

7 THE COURT: You were just going to hide over
8 there; right?

9 THE PROSPECTIVE JUROR: I was raising my hand.

10 THE COURT: It is like this. Act like I am giving
11 away the Super Lotto which I am.

12 THE PROSPECTIVE JUROR: It was a cousin of mine,
13 and I don't have the facts of the case except that there
14 was going to be an investigation, and he actually
15 committed suicide before the case went through. If it is
16 going to affect my judgment, it will not.

17 THE COURT: Okay. That is the bottom line for all
18 of this. Thank you.

19 Sorry about that.

20 Anybody else? Tell me this. It is always
21 difficult to anticipate every conceivable question, but
22 as you are sitting here and thinking about this thing and
23 as you are hearing the questions that I am asking of some
24 people and considering their answers, perhaps something
25 occurs to you that we would never guess in a million

1 years that you think, I bet they would like to know this.

2 Everybody has got one of those.

3 So share. Go like this, I will call upon you
4 and you can share. Yes. Ms. Spence.

5 THE PROSPECTIVE JUROR: One thing I answered no to
6 8, but when I was a kid, my mom was sent to jail for a
7 few weeks because she couldn't afford to pay some traffic
8 tickets. And so that really like upset me, and, you
9 know, my mom has kind of always been bitter about that,
10 but I would still be impartial to, you know, somebody
11 else's case that had nothing to do with the same thing.

12 THE COURT: Thank you, Ms. Spence. Appreciate
13 that.

14 Anybody else?

15 THE PROSPECTIVE JUROR: I just thought of
16 something I should -- just thought about. I forgot all
17 about that.

18 THE COURT: Mr. Jordan?

19 THE PROSPECTIVE JUROR: Yes. As an internal
20 affairs investigator, I was investigated by the Attorney
21 General's office for allegedly coercing an individual to
22 resign from their job. I wasn't found guilty of any
23 wrongdoing.

24 THE COURT: You were investigated by a federal
25 agency?

1 THE PROSPECTIVE JUROR: By the Attorney General's
2 office out of Sacramento.

3 THE COURT: Out of Sacramento. Okay.

4 THE PROSPECTIVE JUROR: So they did an
5 investigation on me on the investigation that I did on
6 someone.

7 THE COURT: Okay.

8 THE PROSPECTIVE JUROR: But I wasn't found guilty
9 of any wrongdoing.

10 THE COURT: But do you think you were treated
11 fairly, though, during the course of that investigation?

12 THE PROSPECTIVE JUROR: Yeah. I was treated
13 fairly.

14 THE COURT: So it didn't leave some bad taste in
15 your mouth about criminal investigations in general, did
16 it?

17 THE PROSPECTIVE JUROR: No. No.

18 THE COURT: All right.

19 Another question I have for all of you, I
20 think we all value our privacy. I think we all recognize
21 that to a certain extent in order to live in a somewhat
22 safe society, we are each going to have to relinquish
23 some elements of our privacy. You may hear evidence in
24 this case of wiretap intercepts.

25 I want to know whether or not this drives any

1 of you so completely up the wall that that is it, you are
2 just going to go blind and not be able to listen to the
3 rest of this case.

4 I see no hands. Excellent. All right. At
5 this point, ladies and gentlemen, I am going to turn it
6 over to the lawyers to ask -- oh. Wait a minute.

7 (The following proceedings were held at sidebar
8 outside the presence of the prospective jurors:)

9 THE COURT: Okay. We are not even going to have
10 to argue about No. 13. Okay. She is gone.

11 The question is whether or not there is any
12 challenges for cause.

13 MR. DORE: The government's exclusive challenge --
14 this is Michael Dore -- for cause was No. 13,
15 Ms. Kochkerian.

16 THE COURT: Okay. That is easy. Anybody other
17 than her?

18 MR. CEPHAS: I don't agree with 13 for cause.

19 THE COURT: Really?

20 MR. CEPHAS: No, I don't.

21 THE COURT: Okay.

22 MR. CEPHAS: That is the only issue I have.

23 MR. DORE: Your Honor, may I just put on the
24 record my basis. Among other things, Ms. Kochkerian said
25 that she did not believe she would be fair because of her

1 anger, and we believe that that and her other statements
2 as well as her demeanor in responding to your questions
3 on these issues provides sufficient cause for her to be
4 excused.

5 MR. CEPHAS: And, your Honor, I think that she has
6 not said enough yet. She seems to be a little bit
7 confused. I think it might be appropriate for the
8 government to use some of their voir dire with respect to
9 her to see if they can establish cause.

10 THE COURT: She said she couldn't be fair.

11 MR. CEPHAS: And I think maybe that should be
12 explored because it seems to me that, I believe what she
13 is really expressing is she does think there is sometimes
14 something wrong with the system. But I am not convinced
15 that if the government explored it further, she
16 absolutely could not be fair with respect to our clients.
17 I think she would be critical of the government's
18 witnesses as she should be, but I am not convinced that
19 she wouldn't be fair.

20 THE COURT: Okay. All right. And there is no
21 one else? Okay. All right. Let me talk to her a little
22 bit then. Thank you.

23 (The following proceedings were held in the
24 presence of the prospective jurors:)

25 THE COURT: First of all, during the course of the

1 trial, we are not going to do very much of that at all,
2 these sidebars. I know jurors think that we are trying
3 to keep stuff from them, and, quite frankly, that is
4 indeed what we are doing. But it is necessary.

5 And during this phase of the trial, it is
6 absolutely necessary because we have to say things behind
7 your back.

8 Okay. You just knew, didn't you.

9 THE PROSPECTIVE JUROR: I just need to be honest,
10 your Honor.

11 THE COURT: I want you to be.

12 THE PROSPECTIVE JUROR: I don't think it will be
13 fair for me to make a decision with the feelings I have.

14 THE COURT: All right.

15 THE PROSPECTIVE JUROR: And it is not fair to the
16 prosecutors. It is not fair to the, you know, people who
17 are being accused.

18 THE COURT: It wouldn't be fair to anyone to have
19 you on this jury?

20 THE PROSPECTIVE JUROR: Correct.

21 THE COURT: Because you are not a fair and
22 impartial, open-minded conscientious citizen?

23 THE PROSPECTIVE JUROR: Because of the pain I went
24 through with my ex-husband when I was married with
25 three young kids, and I think the divorce is because of

1 that big time. It affected me a lot. And now my son is
2 going through that, and it just, I don't think the system
3 is working right.

4 THE COURT: Okay.

5 THE PROSPECTIVE JUROR: Planting evidence, you
6 know.

7 THE COURT: Say what?

8 THE PROSPECTIVE JUROR: Planting evidence, you
9 know.

10 THE COURT: Oh, my goodness.

11 THE PROSPECTIVE JUROR: And then, thank God, he
12 was found not guilty, but it was, affected me a lot, your
13 Honor.

14 THE COURT: Do you think that in this particular
15 case that you would presuppose that evidence had been
16 planted?

17 THE PROSPECTIVE JUROR: I'm sorry. I couldn't --

18 THE COURT: In this case. This case.

19 THE PROSPECTIVE JUROR: I don't know the case.

20 THE COURT: Would you go into this case
21 presupposing that the authorities had planted evidence?

22 THE PROSPECTIVE JUROR: I still think yes.

23 THE COURT: You would. This case?

24 THE PROSPECTIVE JUROR: Yes.

25 THE COURT: Knowing nothing about this case, you

1 would simply assume that evidence had been planted.

2 THE PROSPECTIVE JUROR: It is -- I am so angered
3 and upset.

4 THE COURT: Okay. All right. So there is simply
5 no way you could sit with an open mind and listen to the
6 evidence?

7 THE PROSPECTIVE JUROR: I don't think it will be
8 fair for me because of all the pain. I still have the
9 pain in me, your Honor.

10 THE COURT: Well, I sympathize with you. The
11 fairness that I am looking for is for these
12 three individuals over here. I want someone who can be
13 fair to them as well as to the government and listen to
14 the evidence with an open mind, critically thinking,
15 critically assessing credibility of witnesses, et cetera,
16 bringing some intellect and common sense to play and make
17 a decision as to whether or not certain facts have been
18 established.

19 That is all I am looking for. Just 12
20 citizens who can do that. All right. So you are not
21 one of those citizens, that is that what you are saying?

22 THE PROSPECTIVE JUROR: No, your Honor.

23 THE COURT: Okay. Good enough. Thank you. I
24 appreciate that.

25 Your position now, Mr. Cephas? Unchanged?

1 MR. CEPHAS: Unchanged, your Honor.

2 THE COURT: All right. That is regrettable. You
3 can return, ma'am, to the third floor. You are excused.

4 THE PROSPECTIVE JUROR: Thank you.

5 THE COURT: All right.

6 THE CLERK: Susan Davis Mitchell.

7 If I could have you come around, sit at the
8 end right here. And if I could have Mr. Guerrero, if I
9 could have you sit on the end of the first row.

10 THE COURT: Ms. Mitchell, do you happen to --
11 well, you will in a moment.

12 THE PROSPECTIVE JUROR: My name is Susan Davis
13 Mitchell. I live in Santa Barbara. I am retired. I am
14 married. I have three stepchildren and two children.
15 The oldest is a nurse. The next is a San Francisco
16 police sergeant. The next works in the hotel business.
17 The next is a manager at a dog day care. And the
18 youngest works part-time in security.

19 I have never served on a jury before. My
20 stepdaughter is in law enforcement. My husband is an
21 attorney, and no to the last two questions.

22 THE COURT: Okay. Thank you. You are retired
23 from what?

24 THE PROSPECTIVE JUROR: I was a travel agent.

25 THE COURT: Any connection ever with Oxnard. I'm

1 sorry. Oxnard. Ontario?

2 THE PROSPECTIVE JUROR: No.

3 THE COURT: None at all?

4 THE PROSPECTIVE JUROR: None.

5 THE COURT: Now, all this discussion regarding
6 gangs, has that evoked any emotional response in you
7 based upon any experiences that you or a family member or
8 a close friend has had?

9 THE PROSPECTIVE JUROR: No.

10 THE COURT: Okay. With respect to our discussions
11 regarding law enforcement and whether or not that will
12 evoke any feelings in you either pro or con so that it
13 would affect your attitude towards their testimony?

14 Nothing?

15 THE PROSPECTIVE JUROR: No problem.

16 THE COURT: Okay.

17 THE COURT: What about this issue of privacy? Do
18 you feel so strongly about your personal privacy that you
19 find it offensive that from time to time the government
20 may find it necessary to use the wiretaps, phone
21 intercepts as one element of their investigation tool
22 box?

23 THE PROSPECTIVE JUROR: I have no problem with
24 that.

25 THE COURT: Okay.

1 THE COURT: All right.

2 MR. CEPHAS: Your Honor?

3 THE COURT: Yes, Mr. Cephas.

4 MR. CEPHAS: I apologize, but earlier, and I
5 believe it was Mr. Diep indicated that he lived in San
6 Diego, and I wasn't sure if it is -- maybe I misheard,
7 but I am not sure it is appropriate for someone outside
8 of the Central District to be on the jury, but perhaps I
9 misheard.

10 THE PROSPECTIVE JUROR: San Gabriel.

11 MR. CEPHAS: I'm sorry. Then I did mishear.

12 THE COURT: Okay.

13 MR. CEPHAS: I apologize.

14 THE COURT: All right. At this time, ladies and
15 gentlemen, I am going to turn it over to the lawyers --
16 well, wait a minute.

17 Is there any challenge for cause as to
18 Ms. Mitchell?

19 MS. EL-AMAMY: No, your Honor.

20 MR. NAVARRO: No, your Honor.

21 MR. WALSH: No, your Honor.

22 MR. CEPHAS: No, your Honor.

23 THE COURT: All right. At this point, I am going
24 to turn it over for a brief voir dire for purpose of
25 exercising peremptory challenges to the attorneys. Five

1 minutes, counsel, beginning with the government.

2 MS. EL-AMAMY: Thank you.

3 Good morning. Again, my name is Reema
4 El-Amamy. Along with my colleague, I represent the
5 government. And I am going to just ask a few follow-up
6 questions based on what the judge has already said.

7 Now, we have heard some questions about
8 viewing law enforcement testimony differently. Is there
9 anybody that would view that testimony more favorably or
10 less favorably? Anyone, based on your experience or
11 employment, would you tend to discredit or credit more
12 law enforcement? Yes, sir?

13 THE PROSPECTIVE JUROR: I think I would credit
14 more law enforcement because of my training. I work with
15 the inspector general's office, and we deal with -- I was
16 a senior -- I was a supervising auditor, and our training
17 deals with it because we look at fraud cases in the
18 district.

19 MS. EL-AMAMY: Would that experience make you
20 biased in this case towards either side?

21 THE PROSPECTIVE JUROR: I wouldn't say I would be
22 biased, but that thing there that is at the back of my
23 mind, but it might subconsciously.

24 MS. EL-AMAMY: Do you think you could follow the
25 court's instructions and look at the evidence and not

1 judge any guilt or innocence until you were instructed
2 to?

3 THE PROSPECTIVE JUROR: Yes. I can do that.

4 MS. EL-AMAMY: Is there anything else that we
5 should be aware of?

6 THE PROSPECTIVE JUROR: Well, due to the training,
7 it might stick at the back of my mind. I might -- it
8 might be a subconscious thought or subconscious leaning
9 to the lawsuit side. But, willfully, I would really try
10 my best or not try, but I would like to be fair.

11 MS. EL-AMAMY: Thank you, sir.

12 Is there anybody else that feels that they
13 would credit or discredit any sort of law enforcement
14 testimony? For example, sir, would your experience in
15 internal affairs cause you any issues in this case?

16 THE PROSPECTIVE JUROR: I don't think so. I mean,
17 because I have done investigations on both sides of the
18 spectrum. I did, prior to doing internal affairs
19 investigations, I did criminal investigations, and so I
20 have investigated both sides. There has been cases with
21 internal affairs investigations where it was determined
22 that the law enforcement staff were wrong, and then they
23 have been right. You know, I think I would pride myself
24 on the fact that I deal with the evidence that is placed
25 before me. And so you are guilty if you are guilty, if

1 you are not, you are not. And if the evidence supports
2 it, that is what it is.

3 MS. EL-AMAMY: Thank you, sir.

4 Is there anyone who has had an experience with
5 law enforcement where you feel they treated you
6 unprofessionally, unfairly? Yes, sir.

7 THE PROSPECTIVE JUROR: When I was in high school,
8 I had really long hair, and I smoked cigarettes. So I
9 had a really beat up truck that I drove. And I got
10 pulled over three different times for nothing besides the
11 fact of what I looked like. And two times they put the
12 plastic handcuffs on me and put me in the car. I don't
13 hold it against all law enforcement, but I definitely
14 think I would be a little leary on how they get evidence
15 because when I got pulled over one time, the cop, the
16 first thing she asked me was are you smoking marijuana?
17 Do you have methamphetamine in the car? Do you have
18 heroin in the car? Do you have cocaine in the car? Sir,
19 step out of the car. So it was one of those situations.
20 I have dealt with that a few times.

21 MS. EL-AMAMY: Well, now, you work for government,
22 has your view changed over time?

23 THE PROSPECTIVE JUROR: Not necessarily because I
24 still actually still drive that truck. So, you know, I
25 have seen the difference like even just like when I wear

1 my suit like I have gotten pulled over once on my way to
2 work. And there was no different circumstance. The
3 difference was the registration was up, and the cop just
4 like checked my ID and said, okay, you need to get new
5 registration, along you go.

6 MS. EL-AMAMY: Do you think you can be impartial
7 in this case?

8 THE PROSPECTIVE JUROR: I think it would depend on
9 like what -- the one thing I would get holed up on is if
10 there is an instant where they had, you know, the
11 defendants were saying one thing about a procedure a cop
12 did to get, either to search a vehicle or to obtain some
13 kind of evidence, I still might be leary of that. Like I
14 said, I don't hold it against all government or law
15 enforcement, but I am definitely like I do know that
16 there is tricks that cops use to obtain evidence.

17 MS. EL-AMAMY: Is there anyone else?

18 Is there anyone who has been a victim of a
19 crime or had a family member or friend been a victim of a
20 crime that would cause you to have some problems in this
21 case?

22 Is there anyone that has been the subject of a
23 wiretap investigation or known someone to be the subject
24 of a wiretap investigation?

25 Is there anything about the procedures used

1 during wiretaps that would cause you to have problems in
2 this case?

3 Has any member of your family or a friend ever
4 filed a lawsuit or complaint against a law enforcement
5 officer?

6 MS. EL-AMAMY: Yes, sir.

7 THE PROSPECTIVE JUROR: It may solve some other
8 stuff too. My best friend was -- well, he was involved
9 in some spousal abuse, but then his wife worked for the
10 sheriff's department. So they came while on the clock
11 and just beat him up pretty badly. But I have also
12 gotten several friends that are cops too. So there is
13 good and bad obviously. They did falsify their timecards
14 and so she was involved. She was terminated at some
15 point because she was testifying against them, and she
16 ended up winning the lawsuit and a substantial sum of
17 money. But, you know, that is not disclosed how much.

18 MS. EL-AMAMY: Do you think you can be impartial
19 in this case?

20 THE PROSPECTIVE JUROR: Yeah. This was several
21 years ago, and like I said there is both sides of the
22 coin there, with, you know, there was obviously, you
23 know, dishonest people in every profession.

24 MS. EL-AMAMY: Which law enforcement agency was
25 this?

1 THE PROSPECTIVE JUROR: This was the L.A. County
2 Sheriff.

3 MS. EL-AMAMY: Now, if you heard evidence that
4 officers used surveillance or were secretly watching in
5 connection with a criminal investigation any individual,
6 would anyone have a problem with that kind of testimony?

7 THE PROSPECTIVE JUROR: I don't know if I have a
8 problem but I know that I am in a PHD program so I am
9 sort of privvy to psychologists who I have read a lot of
10 papers about eye witness testimony and how accurate it
11 can be or not be, and often times those professors are
12 called into trials.

13 MS. EL-AMAMY: If this wasn't an eye witness case,
14 if this was just surveillance being conducted in
15 connection with an investigation, would you be okay with
16 that kind of testimony?

17 THE PROSPECTIVE JUROR: Yeah.

18 MS. EL-AMAMY: Would anyone else have a problem
19 with that?

20 Your Honor, I have no more questions.

21 THE COURT: Okay.

22 MR. WALSH: Your Honor, could we go out of order?
23 I was going to go first.

24 THE COURT: There is no order.

25 MR. WALSH: Thank you.

1 Ladies and gentlemen, this is a criminal case,
2 and at the end of the case you will be instructed on the
3 principles of a person cannot be found guilty unless they
4 are convinced beyond a reasonable doubt.

5 Does anybody have any quarrel with that
6 particular legal definition or legal requirement that
7 they couldn't serve on a criminal jury?

8 And, similarly, there is a legal principle
9 that a defendant in a criminal case is not required to
10 testify and that if he or she does not testify, that is
11 not evidence of their guilt. Now, so it requires you to
12 change your thinking at least in terms of that type of
13 evidence. And you will be instructed of that legal
14 principle at the end of the case.

15 Is there anybody that couldn't follow such a
16 jury instruction?

17 THE PROSPECTIVE JUROR: I would want to hear from
18 them. I would want to look them in the eye and hear from
19 them. I would want to hear from the defendants. I would
20 like to look them in the eye and hear what they had to
21 say.

22 THE COURT: Let me butt in.

23 MR. WALSH: Very well, your Honor.

24 THE COURT: In the United States of America, you,
25 sir, are accused of committing some sort of a crime,

1 let's say falsely, and put on trial, the burden is on the
2 prosecution to establish your guilt beyond a reasonable
3 doubt. The burden is not on you to do anything but show
4 up. Clear?

5 THE PROSPECTIVE JUROR: Yes.

6 THE COURT: Are you happy with that?

7 THE PROSPECTIVE JUROR: I think in the back of my
8 mind if I didn't hear them testify, I would always have
9 some doubt.

10 THE COURT: We are talking about about you.
11 Everything is different when it is us.

12 THE PROSPECTIVE JUROR: I understand.

13 THE COURT: You as a defendant. Do you feel that
14 you should have some burden? You have been accused, you
15 have been hauled into court, you have been put on trial
16 by the government. Do you think you have some burden to
17 disprove their case?

18 THE PROSPECTIVE JUROR: I think if I was innocent,
19 I would want to tell everybody that I was innocent. I
20 would want to explain.

21 THE COURT: That is not my question. I want you
22 to think back to junior high school civics.

23 THE PROSPECTIVE JUROR: I understand the
24 principle.

25 THE COURT: Okay.

1 THE PROSPECTIVE JUROR: But I would defend myself.

2 THE COURT: Are you happy with the principle?

3 THE PROSPECTIVE JUROR: I am happy with the
4 principle.

5 THE COURT: Would you like to live some place else
6 where you don't have that principle, where if you are
7 accused, you must prove your innocence?

8 THE PROSPECTIVE JUROR: No.

9 THE COURT: Is it okay if there are those of us
10 who really like that principle and would like to live
11 under that principle and take advantage of its
12 protections? Is that okay?

13 THE PROSPECTIVE JUROR: That is okay.

14 THE COURT: Would you hold it against me, for
15 example, who has been falsely accused and put on trial
16 for some crime that I decide I will show up because I am
17 obligated to show up, but that is it. Prove your case
18 against me government, if you can. Would you hold it
19 against me if I take that position and rely on my
20 constitutional right to do so?

21 THE PROSPECTIVE JUROR: I don't think I would hold
22 it against you but I think my judgment of you would be
23 colored by your -- by not coming forward and defending
24 yourself.

25 THE COURT: You would like to rewrite our

1 constitution, wouldn't you?

2 THE PROSPECTIVE JUROR: No, I wouldn't.

3 THE COURT: We are not at Starbucks, and we are
4 not just having some esoteric, academic conversation
5 here. This is a federal courthouse. All right. We are
6 talking about federal offenses, the United States
7 constitution applies in this room.

8 THE PROSPECTIVE JUROR: I understand.

9 THE COURT: All right. You understand that?

10 THE PROSPECTIVE JUROR: I understand.

11 THE COURT: You do not have to take the stand and
12 utter a word as a criminal defendant. You understand
13 that?

14 THE PROSPECTIVE JUROR: I understand this
15 principle.

16 THE COURT: Can you live with it?

17 THE PROSPECTIVE JUROR: I am talking about how my
18 judgment may be colored.

19 THE COURT: Okay. We are going to find you
20 another country, something you would be more happy with.
21 All right.

22 Sir, you are saying that if a criminal
23 defendant doesn't take the stand, that you are going to
24 reach the assumption that that defendant is probably or
25 more likely than not guilty.

1 THE PROSPECTIVE JUROR: I think if all other
2 evidence was gray, I would tend that way. If it is black
3 and white, then I would go whichever the black and white
4 was. But if it was --

5 THE COURT: Gray?

6 THE PROSPECTIVE JUROR: If it was a gray area, I
7 would probably hold that against them.

8 THE COURT: Let me throw something else in here
9 because I think it is important to all of you. If the
10 evidence is gray, they haven't done their job. All
11 right. They have to prove the defendant's guilt beyond a
12 reasonable doubt. Not gray. Not 50 shades of gray.
13 Beyond a reasonable doubt. Clear?

14 THE PROSPECTIVE JUROR: Yes.

15 THE COURT: So we never get to this thing about
16 well, okay, we have to go to the tie breaker and the tie
17 breaker is whether or not the defendant testified. We
18 never get there then under your scenario; right?

19 THE PROSPECTIVE JUROR: Okay.

20 THE COURT: We should never never get there
21 anyway, should we? Okay. Remember, after this is over
22 and we are down at Starbucks, okay, we are entitled to
23 those kinds of beliefs. In this room, in this scenario,
24 we are entitled to the protections of the United States
25 Constitution which we all profess to love. Okay.

1 THE PROSPECTIVE JUROR: Yes.

2 THE COURT: All right. Not sometimes. Okay. We
3 have to be willing to apply the protections of our
4 constitution. Can you do that? I am going to instruct
5 you to do that. Can you follow those instructions?

6 THE PROSPECTIVE JUROR: I think so.

7 THE COURT: Think so?

8 THE PROSPECTIVE JUROR: I think all issues in life
9 are gray.

10 THE COURT: No, no, no, no. Listen, I am not in
11 charge of anything at home. Here, I am going to instruct
12 you on the law. Part of that law is a criminal defendant
13 need not testify, absolutely doesn't have to testify and
14 you can't hold that against them. You are not to make
15 any assumptions regarding that. I am going to instruct
16 you on that.

17 And as with all the other instructions I am
18 going to give you, I expect compliance, never from my
19 wife, but from you all, I expect compliance. Okay?

20 THE PROSPECTIVE JUROR: Yes.

21 THE COURT: Question, could you do that? Can you
22 follow the law as I give it to you?

23 THE PROSPECTIVE JUROR: I think I can, and I
24 understand if there is any doubt in any mind at all, if
25 it is all gray, then I will say --

1 THE COURT: Not guilty.

2 THE PROSPECTIVE JUROR: -- not guilty.

3 THE COURT: That's right.

4 THE PROSPECTIVE JUROR: And I am going into this
5 because of my beliefs of how the world works that that is
6 going to be gray.

7 THE COURT: I was totally lost there. Mr. Walsh,
8 turn it over to you, sir.

9 MR. WALSH: During the voir dire, one of the
10 jurors back here indicated that they had a personal
11 experience in their private life that might have affected
12 their ability to be fair and impartial in a prosecution
13 of someone for violating the drug laws, and I believe it
14 was Mr. Guerrero. I don't have any further questions for
15 Mr. Guerrero, but he informed us that his sister had a
16 drug problem, and that that was a very emotional thing
17 that may have affected him and may interfere with his
18 ability to be fair and impartial.

19 So my question is are there any other jurors
20 in the jury panel that have had an experience in their
21 past life where whether it be a family member or a
22 personal friend that had a drug problem and that that may
23 possibly affect their ability to be fair and impartial if
24 they are sitting on a jury where someone is charged with
25 a drug offense. Is there anyone in the panel up here?

1 Anyone? I think we have already heard from Mr. Guerrero.

2 So is there anyone else?

3 Yes. You have already answered the question.

4 Yes. Let me see. You are Ms. Williams?

5 THE PROSPECTIVE JUROR: Austin, Nicole.

6 MR. WALSH: Just a moment. Okay. Go ahead.

7 THE PROSPECTIVE JUROR: My niece was on meth for a
8 long time up until she was like 21. I don't like drug
9 dealers. They messed up my family for a long time. I
10 don't think that it will cloud my judgment, but I am not
11 too sure because it really tore us apart. I was the
12 one who took care of her when she was sick, going through
13 her withdrawals. So it is really difficult for me to
14 have to deal with that. It is hard talking about it now,
15 but she is okay now. But I don't know if I will be
16 impartial or partial. I don't know. Not too sure.

17 MR. WALSH: And is there anyone else that had a
18 similar experience?

19 THE PROSPECTIVE JUROR: Teresa Rathsam. So my
20 brother was in prison for dealing and use, and my sister,
21 I am currently helping raise her 5-year-old twin boys
22 based on her drug usage.

23 MR. WALSH: All right. And she is still going
24 through a drug problem currently?

25 THE PROSPECTIVE JUROR: Yes.

1 MR. WALSH: So this isn't something that happened
2 in the past. You think that might have some strong
3 influence on your ability to be fair and impartial if you
4 sat on a criminal case where someone was charged with
5 drugs?

6 THE PROSPECTIVE JUROR: Yes. I mean, I don't
7 think -- I think drug dealers are in it for their own
8 purpose, their own money, their own gain and their own
9 addiction.

10 MR. WALSH: Okay. Now, there is a principal in
11 criminal law that a defendant at the start of any
12 criminal trial has a right to be presumed innocent. In
13 other words, we don't know whether the three defendants
14 here charged are drug dealers or not. In fact, that is
15 what the trial is about. So at the start of the trial,
16 would you be able to follow that instruction that you are
17 to presume the three defendants here innocent until they
18 have -- the government has presented evidence beyond a
19 reasonable doubt that they are drug dealers?

20 THE PROSPECTIVE JUROR: I would hate to be, but I
21 would do my best. But when I heard the judge first say
22 what the counts were and the charges against them and the
23 layers of it, that doesn't make me feel very good about
24 it. I mean, I have to be honest with you.

25 MR. WALSH: Thank you.

1 And then I had some specific questions for
2 some of the jurors on the panel. Juror No. 11,
3 Mr. Rodriguez, I think in answer to the court's question
4 your occupation, you told us you were unemployed but you
5 didn't tell us what you were unemployed from?

6 THE PROSPECTIVE JUROR: A mover.

7 MR. WALSH: Mover. Oh. Okay.

8 MR. WALSH: And could you pass the microphone to
9 Ms. Benevente, I think the same question. I think you
10 had mentioned you were unemployed.

11 THE PROSPECTIVE JUROR: It is my spouse.

12 MR. WALSH: What was his former occupation?

13 THE PROSPECTIVE JUROR: Construction.

14 MR. WALSH: And then could you pass the microphone
15 to Ms. Slingerland. Could you give me a brief
16 description of the type of work that you do? I guess you
17 are with a computer training company?

18 THE PROSPECTIVE JUROR: Yes. I am in the
19 corporate office.

20 THE COURT: Mr. Walsh, hang on.

21 MR. WALSH: I'm sorry. Speed this up.

22 THE PROSPECTIVE JUROR: I coached franchises on
23 how to use our internal system, all technical.

24 MR. WALSH: And I will try to be more --

25 THE COURT: Relevant.

1 MR. WALSH: I will try to limit the questions,
2 your Honor.

3 I have a question for Ms. Wang, Juror No. 4.
4 You work for the Los Angeles Superior Court.

5 Could you tell me what you do there?

6 THE PROSPECTIVE JUROR: Clerk.

7 MR. WALSH: Are you in a courtroom?

8 THE PROSPECTIVE JUROR: Not in a courtroom. In
9 the clerk's office.

10 MR. WALSH: And have you served in the courtroom
11 as a court clerk?

12 THE PROSPECTIVE JUROR: No.

13 MR. WALSH: And, Ms. Wolfe, could you hand -- I
14 believe you told me that your husband works in a prison?

15 THE PROSPECTIVE JUROR: CMC. He is a yolk fellow
16 so he has a volunteer chaplain that he is there once a
17 week.

18 MR. WALSH: So he is a minister, then?

19 THE PROSPECTIVE JUROR: Yeah.

20 MR. WALSH: And Janice Spence, in answer to the
21 question as to whether or not you hadbody any in law
22 enforcement, you told us your parents were in the
23 military. Were they in law enforcement related options
24 in the military?

25 THE PROSPECTIVE JUROR: I don't know. My mom did

1 weapons, and I am not sure exactly or weapons supply. I
2 am not sure exactly what my dad did, but I have an uncle
3 who, I don't know, like all my family is in the military.
4 So it is all different kinds of military, everything from
5 Navy Seal to Marines, Army.

6 MR. WALSH: Nothing specifically related to law
7 enforcement, like military police or anything like that?

8 THE PROSPECTIVE JUROR: Not that I am aware of.

9 MR. WALSH: Okay. And then, Mr. Alvarez, when you
10 told us you worked for Los Angeles County, what type of
11 duties do you have on your job?

12 THE PROSPECTIVE JUROR: Eligibility worker. I
13 determine eligibility for participants in the welfare
14 department.

15 MR. WALSH: Okay. And do you work with law
16 enforcement. Do they do investigations of persons that
17 are improperly receiving welfare?

18 THE PROSPECTIVE JUROR: They do yes, but I don't
19 do that.

20 MR. WALSH: You don't get involved in those
21 investigations?

22 THE PROSPECTIVE JUROR: No.

23 MR. WALSH: Yes. Ms. Spence. Yes.

24 THE PROSPECTIVE JUROR: I know it says friends and
25 family members. So, yes, I have a friend from high

1 school who is a military police officer.

2 MR. WALSH: Okay. Thank you.

3 MR. WALSH: That is all I have, your Honor. Thank
4 you.

5 MR. CEPHAS: Excuse me, but my legs are stiff.

6 Myself, Mr. Walsh and Mr. Navarro are all
7 court-appointed attorneys. Do any of you have any
8 problems with the court and essentially you the taxpayer
9 paying for attorneys for defendants who cannot afford an
10 attorney?

11 Mr. Willis, you indicated some problems with
12 people who don't take the stand on their own behalf. Do
13 you have any feelings as to why you think people,
14 defendants may not take the stand in their own defense?

15 THE PROSPECTIVE JUROR: I don't know why they
16 would not.

17 MR. CEPHAS: Why do you think they wouldn't?

18 THE PROSPECTIVE JUROR: Because they don't want to
19 be asked questions that would be to their detriment.
20 They may want to hide things.

21 MR. CEPHAS: Wouldn't it be easier for them to
22 just get on the stand and say I didn't do it, I wasn't
23 there?

24 THE PROSPECTIVE JUROR: Perhaps.

25 MR. CEPHAS: What if you -- and just, for example,

1 what if you were convicted of a crime 10 years ago, and a
2 crime is committed in your neighborhood, the police round
3 up the usual suspects, you have a record, they pick you
4 up, would you be reluctant to get on the stand knowing
5 that unless you get on the stand, that prior conviction
6 doesn't come into evidence?

7 MR. CEPHAS: I think I would probably be
8 reluctant, but, as a juror, I would want to know about
9 the prior conviction, I think.

10 MR. CEPHAS: But if you were the defendant,
11 wouldn't you be afraid that the jury might think you did
12 it once, you must have done it again?

13 THE PROSPECTIVE JUROR: As a defendant, I would be
14 afraid of that. Yes. Someone sitting in judgment of
15 that person, I would want to know about it.

16 MR. CEPHAS: Okay. Okay. Ms. Wolfe.

17 THE PROSPECTIVE JUROR: Lot of information going
18 by, and I am a sloppy writer, but I believe you said at
19 some point that your daughter was attracted to gangs?

20 THE PROSPECTIVE JUROR: I mean, well, we have had
21 some issues with marijuana and escaping from the house
22 those things and typical.

23 MR. CEPHAS: Do you think your daughter knows some
24 gang members?

25 THE PROSPECTIVE JUROR: You know, there are -- we

1 live in SLO. As far as I know, there are not gangs.

2 MR. CEPHAS: But do you think your daughter knows
3 any gang members?

4 THE PROSPECTIVE JUROR: I do not.

5 MR. CEPHAS: Do you think it is possible for a
6 person to know a gang member and to even be friends with
7 a gang member but not be a part of the gang?

8 THE PROSPECTIVE JUROR: I do.

9 MR. CEPHAS: Okay. What about you, Mr. Jordan, do
10 you believe that a person can be friends with a gang
11 member without being part of the gang.

12 THE PROSPECTIVE JUROR: Yes. Sure. Yes, I do.

13 MR. CEPHAS: And you have some prison experience;
14 is that correct?

15 THE PROSPECTIVE JUROR: Yes, I do. Yes.

16 MR. CEPHAS: And, in your experience, are there
17 people in prison who are friends with gang members in
18 prison but don't themselves become part of the prison
19 gang?

20 THE PROSPECTIVE JUROR: That's correct.

21 MR. CEPHAS: And have you seen instances where
22 people in prison may even align themselves with gangs in
23 prison say, for protection, but don't become part of the
24 gang?

25 THE PROSPECTIVE JUROR: Yes.

1 MR. CEPHAS: Why is that? Why would someone do
2 that?

3 THE PROSPECTIVE JUROR: It is a territorial thing.
4 And it is more on the lines of race lines. So within the
5 prison system, Hispanics run with Hispanics, black runs
6 with blacks, and whites associate with whites. And so
7 from a protection, a safety standpoint, you have to align
8 yourself with one of those three groups. It would be in
9 your best interests to do that instead of walking the
10 yard alone, but you may not necessarily be a gang member.
11 The term they use would be a gang associate.

12 MR. CEPHAS: So if I got thrown in prison, I would
13 probably align myself with other black inmates even part
14 of a gang even though I didn't join the gang?

15 THE PROSPECTIVE JUROR: Yes. That's correct.

16 MR. CEPHAS: Ms. Spence, I think you had indicated
17 you were a victim of graffiti.

18 I know there are different kinds of graffiti
19 that we see in our everyday lives. There is the, like,
20 scratch, I don't know, messages or something, and then
21 there is stuff that some people call street art. Are you
22 familiar with street art type graffiti?

23 THE PROSPECTIVE JUROR: Yeah. The only reason why
24 I said it was gang-related graffiti is because the people
25 who I talked with on the phone said that it was gang

1 related graffiti. So whether they are educated on that
2 or not, I don't really know.

3 MR. CEPHAS: Was it the kind of graffiti that is
4 done with spray cans in an art format, or was it more
5 just like words?

6 THE PROSPECTIVE JUROR: It was more like words,
7 but you couldn't read it that well. I didn't know what
8 it said. Like a foreign language or something or like
9 really decorative writing.

10 MR. CEPHAS: What about you, Mr. Willis, I believe
11 you also indicated you were a victim of graffiti on a
12 number of occasions?

13 THE PROSPECTIVE JUROR: Yes. Several times. It
14 continues.

15 MR. CEPHAS: Is some of it artwork?

16 THE PROSPECTIVE JUROR: No. It was just all
17 tagging. I am familiar with the graffiti art and the
18 difference.

19 MR. CEPHAS: So you have seen street art and
20 graffiti art?

21 THE PROSPECTIVE JUROR: I have gone -- my wife is
22 an artist, and I know the difference.

23 MR. CEPHAS: Do you believe that someone who
24 engages in street art is necessarily a criminal other
25 than the fact that it is probably a crime to deface

1 someone else's property?

2 THE PROSPECTIVE JUROR: Gee whiz. I believe in
3 the arts. So if it is good art, it is less criminal than
4 bad art.

5 MR. CEPHAS: If you found out that one of the
6 defendants was a street artist, and, you know, spray
7 painted artwork in his community, would you hold it
8 against him and maybe be more likely to find him guilty?

9 THE PROSPECTIVE JUROR: I might be especially if I
10 didn't like the art.

11 MR. CEPHAS: Okay. Fair enough. Mr. Walsh had
12 made some comments about proof beyond a reasonable doubt,
13 and I think many jurors wrestle with the notion of proof
14 beyond a reasonable doubt versus their opinion.

15 I think all of you come in to this room with
16 opinions. Some of you have opinions that there is life
17 on other planets. Some of you have opinions that there
18 is not. In fact, anyone who thinks there might be life
19 on other planets can you raise your hand?

20 I am not sure of your name.

21 THE PROSPECTIVE JUROR: Brendan Langley.

22 MR. CEPHAS: You have an opinion that there is
23 life on other planets? If this trial was about the
24 government proving there was life on other planets but
25 they didn't prove it beyond a reasonable doubt, but you

1 already have your own opinion, at the end of the case,
2 how would you vote when the judge asked you do you find
3 that they have proven that fact beyond a reasonable
4 doubt? How would you vote?

5 THE PROSPECTIVE JUROR: I would say that they
6 didn't do what they accomplished. So, no, that there was
7 not proof beyond a reasonable doubt.

8 MR. CEPHAS: So even though you believe you know
9 the answer, would you hold them to their burden of did
10 they prove it?

11 THE PROSPECTIVE JUROR: Yeah. They would have to
12 show conclusive evidence like I can still have my opinion
13 about what I think might be out there, but if what they
14 showed doesn't prove that, then it can't be, you know,
15 then, that is basically not the case for showing it.

16 MR. CEPHAS: Ms. Gilbert, I believe you were on a
17 civil jury before.

18 THE PROSPECTIVE JUROR: Yes.

19 MR. CEPHAS: In a civil jury, it is not proof
20 beyond a reasonable doubt. It is just who do you believe
21 more? And there is a difference in a criminal case. In
22 a criminal case, they have to prove it beyond a
23 reasonable doubt. In a civil trial that you were
24 involved with, you just have to decide at the end of the
25 day who you believed more. So your opinion in that kind

1 of a case is relevant.

2 Do you understand that your opinion as to
3 guilt or innocence is not relevant here?

4 THE PROSPECTIVE JUROR: Yes.

5 MR. CEPHAS: Okay. And will you be able to make
6 sure that you only find the defendant guilty if the
7 government has proven that beyond a reasonable doubt?

8 THE PROSPECTIVE JUROR: Absolutely.

9 MR. CEPHAS: Mr. Tran, I think you indicated that
10 you were concerned as we all are with being home for the
11 holidays; is that correct?

12 THE PROSPECTIVE JUROR: Yes.

13 MR. CEPHAS: I have a three year old. He will
14 kill me if I am not home. If during deliberations, the
15 the other 11 jurors have all ruled in one direction, but
16 you are voting the other way and you are convinced that
17 you are correct but you want to get home for Christmas,
18 would you change your vote just so that you could get out
19 of here?

20 THE PROSPECTIVE JUROR: No.

21 MR. CEPHAS: What if the judge called the jury out
22 and said to you again, you need to make a decision. If
23 you are convinced, absolutely convinced that you are
24 right, are you going -- would you change your decision to
25 prevent say the peer pressure from other jurors being

1 upset with you that you are holding them up from leaving?

2 THE PROSPECTIVE JUROR: No. I would hold to my
3 opinion.

4 THE COURT: To put your minds at ease, ladies and
5 gentlemen, that is not going to happen. Okay.

6 Two minutes.

7 MR. CEPHAS: I forgot your name.

8 THE PROSPECTIVE JUROR: Viggianelli, Brian.

9 MR. CEPHAS: And I think you indicated you have
10 been pulled over several times or stopped by law
11 enforcement several times?

12 THE PROSPECTIVE JUROR: Yes.

13 MR. CEPHAS: Do you believe that sometimes law
14 enforcement officers harass certain individuals because
15 of how they look or what they drive?

16 THE PROSPECTIVE JUROR: Yes. I used to drive a
17 Trans Am, and then I ended up driving my aunt's ox blood
18 red Cadillac, and I got pulled over a lot more in my
19 aunt's Cadillac than I did in my Trans Am.

20 MR. CEPHAS: Do you think that someone of Latino
21 descent may be harassed more than someone who is white?
22 Do you think law enforcement officers sometimes harass
23 people based on their race or make assumptions about them
24 based on their race?

25 THE PROSPECTIVE JUROR: Yeah. I guess more, I

1 don't necessarily want to say race but definitely
2 appearance, and obviously races will have, you know,
3 there are certain stereotypes that go with that. But you
4 know, because I have dealt with it a few times, I do
5 think that that is true.

6 MR. CEPHAS: Thank you. Nothing further.

7 THE COURT: Mr. Navarro. Briefly.

8 MR. NAVARRO: Good afternoon everybody. Is there
9 anyone here who when you walked in today looked over at
10 Mr. Rivera or perhaps because I happen to be Latino as
11 well and assume that we were here for something to do
12 with guilty of a crime? Anyone make an assumption about
13 my client or perhaps Mr. Cephas, maybe even Mr. Walsh,
14 although I doubt it, about the individual when you walked
15 in that you assume, oh, I wonder what he or she did?
16 Anyone make that kind of assumption when they walked in?

17 Now, one of you mentioned, I think it was
18 Mr. Bancroft, that you had been arrested four years ago,
19 what was that for?

20 THE PROSPECTIVE JUROR: Misdemeanor burglary and
21 misdemeanor trespass.

22 MR. NAVARRO: What happened with those charges?

23 THE PROSPECTIVE JUROR: I took a plea bargain and
24 got a misdemeanor prowling, two years probation, 20 days
25 community service.

1 MR. NAVARRO: Thank you.

2 Now, Mr. Guerrero talked about your sister had
3 a drug problem; is that correct?

4 THE PROSPECTIVE JUROR: It was my nephew.

5 MR. NAVARRO: Your nephew. Sorry. And you
6 indicated early in the morning that this had a --

7 THE PROSPECTIVE JUROR: It was a big impact, I
8 mean, for the family. I mean, you don't expect anyone in
9 your family to, you know, take drugs especially in my
10 family. We were pretty good people, and so it did affect
11 all of us.

12 MR. NAVARRO: What type of narcotics was it?

13 THE PROSPECTIVE JUROR: Cocaine, marijuana and not
14 sure what else.

15 MR. NAVARRO: Now, if this case there was
16 allegations of narcotics dealing, would that affect your
17 opinion to be fair and impartial to the defendants in
18 this case?

19 THE PROSPECTIVE JUROR: Perhaps.

20 MR. NAVARRO: Why?

21 THE PROSPECTIVE JUROR: Well, he is getting the
22 drugs from someone.

23 MR. NAVARRO: And what does that create in your
24 mind?

25 THE PROSPECTIVE JUROR: Negative emotions.

1 Sadness, you know.

2 MR. NAVARRO: Sadness. Why?

3 THE PROSPECTIVE JUROR: Because we went through a
4 lot, you know, with my sister. It took a long time for
5 her to recover.

6 MR. NAVARRO: Thank you.

7 Now, Mr. Willis, we keep coming back to you.
8 I do apologize for that.

9 THE PROSPECTIVE JUROR: I am nothing but trouble.

10 MR. NAVARRO: I believe you stated, and correct me
11 if I am wrong, that you would want to look the defendant
12 in the eye, you would want to hear from him?

13 THE PROSPECTIVE JUROR: Yes. I think I want all
14 information. I want as much information as I can get.
15 What you talked about behind there, I would want to know
16 that too. I would want to know everything.

17 MR. NAVARRO: And if a defendant did not testify,
18 would you assume there was some reason why he or she did
19 not testify?

20 THE PROSPECTIVE JUROR: There would have to be a
21 reason, wouldn't there?

22 MR. NAVARRO: But would you assume that it was a
23 bad reason?

24 THE PROSPECTIVE JUROR: No.

25 MR. NAVARRO: You would think there was just some

1 reason?

2 THE PROSPECTIVE JUROR: There would have to be a
3 reason. You would have to come to a decision one way or
4 the other. Do you play the dice, flip a coin or make an
5 informed decision. I would make an informed decision.

6 MR. NAVARRO: And you would want to know about the
7 reasoning behind that if you could?

8 MR. NAVARRO: Yes, I would.

9 MR. NAVARRO: Is there anyone else who feels that
10 way? That if you are accused of a crime you should speak
11 up and defend yourself? Anybody else have strong
12 feelings that way one way or the other?

13 Let me ask you, sir -- thank you. By the way,
14 thank you.

15 If I could have a second, your Honor.

16 Mr. Jordan, how long did you work in
17 corrections?

18 THE PROSPECTIVE JUROR: 26 years.

19 MR. NAVARRO: Was this through the California
20 Department of Corrections?

21 THE PROSPECTIVE JUROR: Yes, sir.

22 MR. NAVARRO: Were you in the prison setting
23 during most of the time?

24 THE PROSPECTIVE JUROR: I worked within the prison
25 setting for probably 15 years.

1 MR. NAVARRO: And in the prison setting, you were
2 dealing with inmates who were incarcerated?

3 THE PROSPECTIVE JUROR: Yes, sir.

4 MR. NAVARRO: I think Mr. Cephas asked you some
5 questions about that. The inmates that you dealt were
6 with, were they mostly men?

7 THE PROSPECTIVE JUROR: Yes.

8 MR. NAVARRO: If you remember or maybe you don't
9 remember, what percentage were Latino.

10 THE PROSPECTIVE JUROR: I mean, I think I would be
11 speculating.

12 MR. NAVARRO: More than half?

13 THE PROSPECTIVE JUROR: I can't say. I mean, I am
14 not sure. Half of the inmate population, you are asking
15 me, was Hispanic?

16 MR. CEPHAS: What you dealt with in your work.

17 THE PROSPECTIVE JUROR: The number would be high.
18 I mean, if it is half, I don't know if I can say if I
19 thought it was half. I would think it would be between
20 the Hispanic and the African-American inmates, that is
21 probably 75 percent of the inmate population in the
22 state.

23 MR. NAVARRO: I think Mr. Cephas asked you this
24 question as well, but if Mr. Cephas and I were both in
25 custody, we would have to align ourselves with different

1 groups?

2 THE PROSPECTIVE JUROR: Well, you wouldn't have
3 to, but that is usually what happens. I mean, you can
4 stand alone. It is not mandatory, but in most cases
5 people do.

6 MR. NAVARRO: And it becomes a survival mechanism?

7 THE PROSPECTIVE JUROR: Yes.

8 MR. NAVARRO: It may not have anything to do with
9 being a gang member?

10 THE PROSPECTIVE JUROR: Not necessarily.

11 MR. NAVARRO: If you know, based on your
12 experience in law enforcement and corrections, what
13 percent of inmates that you dealt with were gang members?

14 THE PROSPECTIVE JUROR: Again, I am going to be
15 speculating. I don't think I can truthfully answer that
16 question. I mean, I am not really sure. I mean, the
17 prison system, there is gang members in the prison
18 system, but to what percentage, I have no idea to be
19 honest with you.

20 MR. NAVARRO: Would it be a correct statement to
21 say that maybe not everybody who is in prison is a gang
22 member?

23 THE PROSPECTIVE JUROR: Of course.

24 MR. NAVARRO: Regular folks like you and I.

25 Thank you, your Honor.

1 THE COURT: All right. Ladies and gentlemen, we
2 are going to take a break. We are going to break for an
3 hour. And when we come back, hopefully, we are going to
4 be only moments away from opening statements in this
5 case. Please remember the admonition, but I would like
6 you back here in your places at 1:30.

7 (Recess from 12:25 to 1:30 p.m.)

8 (The following proceedings were held in the
9 presence of the prospective jurors:)

10 THE COURT: Mr. Cephas, how many additional
11 peremptories did I say the defense would have?

12 MR. CEPHAS: Four.

13 THE COURT: Okay. Thanks. All right.

14 Ladies and gentlemen, we are at that stage of
15 the jury selection process where we actually start making
16 selections. Your questioning is over.

17 Now, the lawyers will exercise what they refer
18 to as peremptory challenges which are given or challenges
19 that are made for no reason given. It is just a gut
20 feeling. And you aren't to take anything from that as
21 being any indication of whether or not they would like to
22 have dinner with you.

23 All right. Let's begin -- well, let me see.
24 Have you received any explanation as to how this is going
25 to proceed? I can tell you quickly.

1 MR. DORE: We have spoken with Ms. English, but we
2 would love some additional.

3 THE COURT: All right. What you can do with this
4 sheet with the exception of Government's No. 1, add an
5 additional box everywhere until you get to 9 and 10.
6 Leave those as they are. Okay. Everywhere there is an
7 additional box. So defense one, a box. Government two,
8 another box. Defense two and three will be now defense
9 two, three and four.

10 THE COURT: All right. Mr. Dore, are you ready?

11 MR. DORE: Yes, your Honor.

12 We would ask the court to thank and excuse
13 Juror No. 3, Ms. Gurican.

14 THE COURT: All right. Thank you, ma'am. You can
15 please return to the third floor.

16 All right. The next two peremptories are with
17 the defense. Now, we should have talked about this
18 before. I simply assumed that there would be a
19 spokesperson for the defense, but, Mr. Navarro, I am
20 worried about you not being heard.

21 MR. NAVARRO: Your Honor, we spoke before you took
22 the bench, and we have some agreement.

23 THE COURT: Okay.

24 MR. NAVARRO: And when we do have a disagreement,
25 we will speak amongst ourselves.

1 THE COURT: Excellent. All right. Then, the next
2 two peremptories are with the defendants.

3 MR. NAVARRO: Does your Honor seat additional
4 jurors in the empty spots?

5 THE COURT: No. We absolutely are. And I don't
6 know what point Ms. English wants to do that, but I want
7 you all to know exactly what is coming. Tell you what,
8 after about six or so, we will start filling in. How is
9 that? Does that work?

10 (Pause in proceedings.)

11 MR. WALSH: Your Honor, the first two challenges
12 for the defense are No. 12 and No. 9.

13 THE CLERK: Karen Slingerland. 12 is Nelson
14 Willis.

15 THE COURT: What a surprise, Mr. Willis.

16 (Laughter.)

17 THE COURT: All right. The next two peremptories
18 are with the government.

19 MR. DORE: Your Honor, the government would ask
20 the court to thank and excuse Juror No. 5, Ms. Wolfe, and
21 Juror No. 6, Mr. Hecht.

22 THE COURT: All right. Thank you, counsel.

23 All right. Ms. Wolfe, Mr. Hecht, you can
24 return to the third floor. Thank you for your
25 participation and your willingness to serve, and those

1 baby-sitting issues are now over.

2 THE PROSPECTIVE JUROR: They are. Thank you.

3 THE COURT: Would you punch the 20-year-old on the
4 cheek for me.

5 (Laughter.)

6 THE COURT: All right. The next three
7 peremptories are with the defense.

8 MR. DORE: Your Honor, would it be possible at
9 this point maybe to fill the chairs up?

10 THE COURT: Okay. You are right. It is looking
11 sparse, and they are lonely.

12 MR. WALSH: Your Honor, could I have a point of
13 clarification. Would the alternate jurors 13 and 14 now
14 be part of the jury panel as 12 and they should move?

15 THE COURT: No. We don't have a 13 and 14 yet.
16 We won't have it until we have 12. Relax. We are not
17 there yet. But when we finally swear in the 12, whoever
18 is sitting in 13 and 14 will be the first two alternates,
19 and whoever is over there will be the third and fourth.
20 But we will swear in the 12 so you will know. Okay.

21 MR. WALSH: Well, it seems by that calculation,
22 then, 13 and 14, the present 13 and 14 would always --
23 they have already been preselected as alternates then.

24 MR. WALSH: No. Absolutely not. Wait.

25 THE CLERK: It is okay. Don't. I got it.

1 THE COURT: No. I think he is right. It pains me
2 to say that. I think you are right.

3 MR. CEPHAS: That was my understanding also, your
4 Honor.

5 THE COURT: Wait a minute. This is not good.

6 (Court and counsel confer off the record.)

7 THE COURT: Everyone back where you were. Don't
8 get comfortable.

9 Wait. Mr. Jordan. I'm sorry. Right here.

10 THE COURT: That was easy.

11 All right. Thank you, Mr. Walsh.

12 The next three with the defense. Do you pass?

13 MR. WALSH: We have two out of the three we can
14 give you right now.

15 THE COURT: That would be good. Anything.

16 MR. WALSH: Yes. Defense would thank and excuse
17 currently Juror No. 3, Tony Diep, and currently Juror No.
18 5, Pete Roble, and we just need a minute on the third.

19 THE COURT: Gentlemen, thank you.

20 MR. WALSH: As to the third one, your Honor?

21 THE COURT: Okay. Mr. Walsh.

22 MR. WALSH: And our third challenge we would thank
23 and excuse current seated Juror No. 3, Ms. Austin.

24 THE COURT: She is thrilled. All right.

25 Ms. Austin, thank you for your willingness to

1 serve. Return to the third floor, please.

2 All right. Next two with the government.

3 Okay. Mr. Dore.

4 MR. DORE: Your Honor, for the first one, the
5 government would ask the court to thank and excuse
6 Mr. Bancroft, and may we have one moment for the second
7 one.

8 Ms. Candace Lowry, your Honor.

9 THE COURT: 7. Ms. Lowry. Okay.

10 All right. Let's stay within 1 to 12. Okay?

11 MR. DORE: Understood.

12 THE COURT: Next three from the defense.

13 MR. WALSH: We have two of the three right now,
14 your Honor. Current Juror No. 4, Ms. Wang, and current
15 Juror No. 7, Ms. Rathsam.

16 THE COURT: All right. Thank you.

17 You ladies can return to the third floor and
18 thank you.

19 MR. WALSH: And we need just a minute for the
20 third one.

21 As to our third challenge, your Honor, we ask
22 to thank and excuse Juror No. 3, Mr. Bruce Honeybourne.

23 THE COURT: Mr. Dore?

24 MR. DORE: Your Honor, the government passes.

25 THE COURT: All right. The government accepts the

1 jury as presently constituted.

2 Next three with the defense. This afternoon.

3 (Defense counsel confer.)

4 MR. WALSH: We have two of the three, your Honor,
5 Juror No. 17, Mr. Williams.

6 THE COURT: Hold on. 1 to 12.

7 MR. WALSH: Number 9. I'm sorry.

8 THE CLERK: What is the name?

9 MR. WALSH: Gerald Williams. Your Honor, I wanted
10 to challenge to Juror No. 11 because 11 would be going
11 into his seat, and just to speed things up, the defense
12 would thank and excuse Mario Guerrero who is currently in
13 seat No. 13.

14 THE COURT: 13. Thank you. All right.

15 (Defense counsel confer.)

16 MR. CEPHAS: Your Honor, we are going to pass.

17 THE COURT: All right. The defense accepts the
18 jury as presently constituted. We have a jury.

19 MR. DORE: Your Honor, I believe --

20 THE COURT: Has there been a change? I'm sorry.
21 You are right. I'm sorry. I'm sorry. After you pass,
22 there were then two excusings. All right. Then, the
23 next two peremptories with the government. I apologize.

24 MR. DORE: Your Honor, the government would ask
25 the court to thank and excuse Juror No. 9.

1 THE PROSPECTIVE JUROR: Maritere Satterlee.

2 THE COURT: Okay.

3 MR. DORE: And, your Honor, the government would
4 ask the court to thank and excuse Mr. Viggianelli who was
5 just seated in No. 14.

6 THE COURT: Do you want to do that? Wait. Wait.
7 That is really an alternate seat. So don't waste it on
8 them. I mean, you might get there, but, right now, I am
9 just going to 12.

10 MR. DORE: Your Honor, at that point the
11 government, then, passes.

12 THE COURT: Okay.

13 THE COURT: Defense?

14 MR. CEPHAS: Pass, your Honor.

15 THE COURT: Okay. All right. Government pass,
16 the defense pass. Now, we have a 12-person jury. All
17 right.

18 THE CLERK: Jurors 1 through 12, can I have you
19 stand, please. Please raise your right hand.

20 (The jury was sworn.)

21 THE CLERK: Please be seated.

22 THE COURT: All right. We are now going to select
23 four alternate juror in much the same way.

24 Right now, the gentlemen seated in seats 13
25 and 14 would be -- and the seats reserved for alternate

1 jurors as well as 15 and 16. All right. The government
2 will have two peremptory challenges. First challenge.

3 MR. DORE: Your Honor, we ask the court to thank
4 and excuse Mr. Viggianelli, Juror No. 14.

5 THE COURT: 14. All right. Sir, you are excused.

6 THE COURT: Mr. Walsh, what say you?

7 MR. WALSH: Pass, your Honor.

8 THE COURT: Defense passes.

9 THE COURT: Next peremptory is with the
10 government.

11 MR. DORE: We pass as well, your Honor.

12 THE COURT: All right. We have four alternates.

13 Thank you.

14 (The alternates were sworn.)

15 (Proceedings concluded.)

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1 CERTIFICATE
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5 I hereby certify that pursuant to Section 753, Title 28,
6 United States Code, the foregoing is a true and correct
7 transcript of the stenographically reported proceedings held
8 in the above-entitled matter and that the transcript page
9 format is in conformance with the regulations of the
10 Judicial Conference of the United States.

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12 Date: August 2, 2013
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/s/ Katie Thibodeaux, CSR No. 9858, RPR, CRR